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Congressional Record

PROCEEDINGS AND DEBATES OF THE 91st CONGRESS, SECOND SESSION

SENATE—*Friday, December 18, 1970*

(Legislative day of Tuesday, December 15, 1970)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore (Mr. METCALF).

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

O God of the singing skies and starled men, help us to fix our vision on that which is transcendent and eternal, and like wise men of old find truth and wisdom at the manger-crib. May we be born again not to childish ways but to the childhood of simple trust and implicit faith. May the mind that was in Him be in us to guide us to the wisdom of Christmas and to the assurance of Emanuel—"God with us"—in our hearts and our homes, in our work and in our play, in factory and field, in the place of commerce and the committee room, and in these Halls until the Prince of Peace rules in the kingdom of righteousness without end.

In His name we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Thursday, December 17, 1970, be approved.

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.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1453 and Calendar No. 1475.

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

MARKETING QUOTAS FOR BURLEY TOBACCO

The joint resolution (S.J. Res. 249) to extend the time for the proclamation of marketing quotas for burley tobacco for the 3 marketing years beginning October 1, 1971, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S.J. RES. 249

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the Secretary of Agriculture may defer until March 1, 1971, any proclamation under section 312 of the Agricultural Adjustment Act of 1938, as amended, with respect to national marketing quotas for burley tobacco for the three marketing years beginning October 1, 1971.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1442), explaining the purposes of the measure.

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

EXPLANATION

The only purpose of the resolution is to extend the time for the proclamation of marketing quotas for burley tobacco from February 1, 1971 to March 1, 1971.

Under existing law marketing quotas must be proclaimed by February 1, 1971, for the succeeding 3 marketing years.

The only effect of the resolution would be to extend for 1 month the time in which the Secretary of Agriculture would proclaim marketing quotas for the next 3 years. The additional time is needed to study bills which are now pending before the Senate regarding some aspects of the tobacco program and the leasing of tobacco acreage allotments.

EXPANSION OF U.S. EXPORT TRADE

The Senate proceeded to consider the bill (S. 4268) to amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the United States, to exclude bank receipts and disbursements from the budget of the U.S. Government, and for other purposes which had been reported from the Committee on Banking and Currency with an amendment to strike out all after the enacting clause and insert:

That section 2(a) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635 (a)), is amended—

(1) by inserting "(1)" immediately after "SEC. 2(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The receipts and disbursements of the Bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government. In accordance with the provisions of the Government Corporation Control Act, the President shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Bank."

SEC. 2. The President shall—

(1) not later than January 31, 1971, report to the Congress the amount by which the annual expenditure and net lending limitation imposed on the budget of the United States Government by title V of the Second Supplemental Appropriations Act, 1970, will be reduced as a result of the amendment made by section 1; and

(2) not later than September 30, 1971, report to the Congress with respect to the effect of the amendment made by section 1 on the operations of the Export-Import Bank of the United States.

SEC. 3. The amendment made by section 1 becomes effective on the date upon which the President makes the report to the Congress referred to in paragraph (1) of section 2.

Mr. SPARKMAN. Mr. President, S. 4268 would: First, exclude the receipts and disbursements of the Export-Import Bank of the United States in the discharge of its functions from the totals of the budget of the U.S. Government and exempt the Bank's operations from any annual expenditure and net lending—budget outlays—limitations imposed on the budget of the U.S. Government; second, require, in accordance with the provisions of the Government Corporation Control Act, as amended, that the President transmit annually to the Congress a budget for program activities and for administrative expenses of the Bank; third, require the President to report to the Congress not later than January 31, 1971, the amount by which the annual expenditure and net lending limitation imposed on the budget of the U.S. Government by title V of the Second Supplemental Appropriations Act, 1970, will be reduced as a result of excluding the Bank's fiscal year 1971 operations from the budget; fourth, require the President to report to the Congress no later than September 30, 1971, with respect to the effect on the Bank's operations from its exclusion from the budget and exemption from the fiscal year 1971 expenditure and net lending limitation; and fifth, provide that the provisions of the bill affecting the Bank will become effective on the date upon which the President submits to the Congress the required report on the reduction in the fiscal year 1971 expenditures and net lending limitation imposed on the budget as a result of enactment of this legislation.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Enactment of this bill will allow the Export-Import Bank the flexibility it needs in financing its operations over the next 2 years in order to increase substantially its support of the U.S. export trade. Under existing law the Bank's statutory life expires on June 30, 1973.

Sometime prior to the June 30 date our committee must conduct a thorough review of the Export-Import Bank activities and we must consider an extension of the Bank's charter. At that time our committee will review very carefully the authority this legislation bestows upon the Export-Import Bank and we will determine then whether this authority should continue.

I have received letters from the Department of Commerce, Council of Economic Advisers, Export-Import Bank, Office of Management and Budget of the Executive Office of the President, and the Department of State in support of the bill. I ask unanimous consent to have those letters printed in the RECORD at this point in my remarks.

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

GENERAL COUNCIL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., September 23, 1970.

Senator JOHN SPARKMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Departemnt of Commerce with respect to S. 4268, a bill to amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the United States, to exclude Bank receipts and disbursements from The Budget of the United States Government, and for other purposes.

The basic objective of S. 4268 is to help achieve a long-term improvement in the U.S. balance of payments position through increased Export-Import Bank simulation of, and support for, U.S. exports. For that purpose, S. 4268 would exclude the receipts and disbursements of the Bank from the totals of The Budget of the United States Government and exempt such receipts and disbursements from any annual expenditure and net lending (budget outlays) limitations imposed on The Budget. Notwithstanding these changes, the President would transmit annually to the Congress a budget for the Bank's program activities and administrative expenses in accordance with the provisions of the Government Control Act, as amended.

While the abatement of domestic inflation remains the basic requirement for achieving a more satisfactory balance of payments position, the Department of Commerce's view is that a cooler economy will not alone restore the former competitive position of U.S. exports in international markets. Because of high interest costs in the United States, relatively higher prices of U.S. products, and aggressive export financing competition from other countries, the ability of U.S. exporters to offer adequate and competitive financing for their products can be a decisive factor in the success of U.S. export expansion efforts. Credit, moreover, is expected to become increasingly significant in view of the shift in the composition of our exports to high-value, high-technology products; the special importance of adequate and competitive financing in making sales in the newly emerging markets; and the global intensification of credit competition.

The Export-Import Bank is the principal U.S. agency that provides credit and other forms of financial support for U.S. exports. Its programs support and supplement private export financing in those areas where commercial sources are not able to meet the requirements of competitive financing. The Bank's management has taken important steps, particularly during the past year, to increase the effectiveness of its programs. Nevertheless, the credit demands associated with future vigorous export growth will require the Bank to improve and to broaden its present programs, particularly in meeting short-term financing needs. Current budgetary definitions and considerations have prevented the realization of these improvements. Enactment of S. 4268 thus represents an important step toward enabling the Bank to provide the additional financing support needed to expand exports and to assist exporters to compete in foreign markets on a basis of full financial parity.

Particularly important exports which would benefit from increased Bank short-term financing support include iron and steel, textiles and apparel, fertilizers and other agricultural products and a wide variety of consumer goods for which financing is a highly important factor in securing foreign markets. In addition, the flexibility provided by S. 4268 would permit the Bank to make a broader range of export paper eligible for discounting and to provide, as appropriate, greater financial incentives to export. These improvements are needed if the U.S. program is to be fully competitive with corresponding facilities in other countries which, as central to export efforts abroad, are supported and frequently subsidized by their governments.

In summary, and for the above reasons, the Department of Commerce strongly favors the enactment of S. 4268.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

JAMES T. LYNN, *General Counsel.*

COUNCIL OF ECONOMIC ADVISERS,
Washington, September 11, 1970.

Senator JOHN SPARKMAN,
Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Council of Economic Advisers on S. 4268, "To amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the United States, to exclude Bank receipts and disbursements from the budget of the United States Government, and for other purposes."

A case can be made that lending activities of Federal agencies should be included in the budget. To reflect accurately the impact of the Federal Government in credit markets, as well as through purchases and transfers the budget should include these lending activities.

On the other hand, it can reasonably be argued that the activities of the Export-Import Bank are in many ways more similar to those of (solely or Federally assisted) private financial institutions than they are to many activities in the budget. Thus, a case can be made for excluding the Export-Import Bank from the budget.

Accordingly, the Council of Economic Advisers has no objection to the proposed legislation.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this letter.

Sincerely yours,

HERBERT STEIN,
Acting Chairman.

EXPORT-IMPORT BANK OF
THE UNITED STATES,
Washington, D.C., September 4, 1970.

Senator JOHN SPARKMAN,
New Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: You have requested our comments on S. 4268 which would further amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the United States, to exclude Bank receipts and disbursements from the budget of the United States Government, and for other purposes.

The Export-Import Bank strongly supports and urges the enactment of this bill.

Commencing in May 1969, the Bank's management undertook a comprehensive overhaul and revision of all its programs and activities in response to the very urgent and demonstrated need of the U.S. exporting community. By reason of these revisions the Bank has been able to devise several ways to use substantial amounts of leverage in obtaining the maximum amount of exports for the dollars actually loaned. It has been able to do this through more extensive use of its guarantee authority and its insurance programs, as well as through the means of working in partnership with the commercial banks in the U.S. and abroad. This allowed the Bank to support $5.5 billion of exports in Fiscal Year 1970, an increase of 90 percent over Fiscal Year 1969. In future years, the Bank projects substantial increases in its support of the exporting community above the level attained in Fiscal Year 1970.

It has become clear that increasing exports is a significant means to assist this country in improving its balance of international payments account. This bill will enable the Bank to increase its support of a major sector of the nations export trade with a variety of carefully designed and administered programs.

In our opinion, the most urgent need at the present time in the U.S. exporting community is additional support in particular areas where the United States has not maintained its position in world trade because of the extremely strong competition from foreign government supported export financing agencies. These include such products as agricultural commodities basic iron and steel products, chemicals, lumber, fertilizers, and pharmaceuticals. At the same time, the need continues to increase for additional support for sales abroad of "technology-intensive" manufactured goods such as jet aircraft, nuclear power installations, thermal power installations, petrochemical plants, and computer complexes.

Enactment of S. 4268 would enhance the flexibility of operations of the Bank provided in its basic corporate charter and repeatedly confirmed by Congress through amendments to the Bank's original charter. It will also facilitate, without the requirement of any appropriated funds, the increases in export financing in amounts, cost, and flexibility necessary to meet competition from other exporting countries and it will strengthen the capacity of the Bank to rationally manage its financial affairs in the most economical and responsive manner.

Both under the old administrative budget concept and under the newer unified budget concept, the disbursement of direct loans by the Bank, as well as by other Government corporations, is accounted for as a part of budget outlays; collections on the principal of loans are accounted for as an offset to budget outlays. In a period of expanding activity, disbursements exceed collections, which results in the "net lending outlays" within the budget totals, attributable to the Bank's operations. This amounted to $246.3

million in FY 1969 and $219.1 million in FY 1970. However, these outlays created assets in the form of loans receivable, and therefore they were really the exchange of one kind of asset (cash) for another kind of asset (loans). Under generally accepted accounting procedures, the Bank did not lose money but in fact made a profit of $104 million in 1969 and $110 million in 1970, and paid a $50 million dividend to the general fund of the Treasury in each of those years. With the proposed removal of its receipts and disbursements from the budget, the Bank will be able to meet the needs of exporters without having its operations charged as a budget outlay.

As presently required by the Government Corporation Control Act the Bank will continue to submit its budget to the President through the Office of Management and Budget. The bill specifically provides, as does the Government Corporation Control Act, that the President shall transmit to Congress the Bank's budget for program activities and for administrative expenses. Thus, the ultimate decision as to the amount and kind of activities of the Bank will continue to rest with the Congress.

Pursuant to the Government Corporation Control Act the Bank's borrowing in the private market would continue to be subject to approval of the Secretary of the Treasury. This borrowing will not increase the money supply in the U.S. economy since it will merely be borrowing from one sector and applying those funds for use in another sector, i.e., the exporting sector. Although not so specified in the bill, the Bank would expect, with Treasury permission, to obtain most of its capital funds in the future on the private market. Eximbank will continue to pay dividends out of its net profit into the general fund of the Treasury and, to the extent that it has borrowings from the Treasury outstanding, will continue to pay interest to the general fund. The Bank's net borrowings from the Treasury, beginning with the current fiscal year, would be kept approximately equal to the sum of the dividend and interest payments to the Treasury, so that the Bank would have a neutral effect upon the general fund of the Treasury; that is, its net drawdown or payback each year would be near zero.

Arguments may be anticipated that enactment of the bill would establish a precedent for similarly excluding receipts and expenditures of other activities from budget totals. Eximbank purposes, however, are very different from those of most other Federal loan programs. In seeking to improve the U.S. balance of payments position, the Bank's object is to enhance our trade by making our financing of exports competitive with that of other nations. Moreover, the Bank's programs benefit nearly every segment of industry and the population of the United States and must be directly responsive to world economic conditions primarily to meet the competition from other exporting countries. These programs cannot be strictly conditioned upon the domestic economy of this country. Indeed, they generally run countercyclically with the alternative policies of budgetary restraint and relaxation. In many respects, therefore, the Bank is unique among Federal activities, and special treatment of its operations should not be considered a precedent for other programs.

The Bank urges early enactment of S. 4268 for the reasons stated herein.

We have been advised by the Office of Management and Budget that there is no objection to the submission to you of this report from the standpoint of the Administration's program.

Sincerely yours,

HENRY KEARNS.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., September 16, 1970.

Senator JOHN SPARKMAN,
Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Office of Management and Budget on S. 4268, a bill "To amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the U.S. to exclude Bank receipts and disbursements from the budget of the U.S. Government, and for other purposes."

S. 4268 would add a provision to Section 2(a) of the Export-Import Bank Act of 1945 to exclude receipts and disbursements of the Bank in the discharge of its functions from the totals of the Budget of the U.S. Government, and to exempt those receipts and disbursements from any annual outlay limitations imposed on the Budget. It would also require, as does the Government Corporation Control Act, that the President transmit annually to the Congress a budget for program activities and administrative expenses of the Bank. The bill would not alter the requirement for subsequent action on that budget by the Congress, as provided in the Government Corporation Control Act.

The Office of Management and Budget supports the important objective of greater expansion of our nation's export trade as a key element in improving our balance of international payments. While our trade account has strengthened recently, there are still a number of areas where the U.S. has had difficulty in maintaining its position in world trade because of strong competition from foreign government-supported export financing agencies. The Export-Import Bank comprises the principal U.S. mechanism for responding to this competitive challenge. It sponsors a variety of programs designed to supplement private capital in the financing of experts, including the provision of concessionary financing to stimulate export sales that might not otherwise have been achieved. Moreover, in contributing positively to our balance of international payments, the Bank's lending activities are unique among Federal credit programs. We understand that the proposed legislation is intended to enhance the Bank's capacity and flexibility to carry out its mission, with the goal of a significant and rapid expansion of U.S. export trade.

Accordingly, the Office of Management and Budget would support the enactment of S. 4268.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF STATE,
Washington, D.C., September 16, 1970.

Senator JOHN SPARKMAN,
Chairman, Committee on Banking and Currency, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of September 9, 1970, enclosing for the Department's comments a copy of S. 4268.

The Department of State believes that an assured source of sufficient amounts of export credit at competitive interest rates is essential to a national foreign trade policy based on export expansion. To achieve this goal, a viable and flexible means of meeting the legitimate credit needs of U.S. exporters in a manner comparable to that of other major trading nations is required. The Department believes the necessary flexibility can be fostered by means of the proposed exemption of the receipts and disbursements of the Export-Import Bank from any Federal Budget and any annual expenditure and net lending limitations imposed on the Budget of the United States Government.

In view of the foregoing, the Department of State favors the proposed legislation.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

Mr. SPARKMAN. Mr. President, I am thoroughly convinced that this legislation will be extremely helpful to the operation of the Export-Import Bank and I urge favorable consideration by the Senate.

The amendment was agreed to.

The bill was ordered to be engrossed for 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. 91–1462), 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 LEGISLATION

S. 4268, as amended by the committee, would (1) exclude the receipts and disbursements of the Export-Import Bank of the United States in the discharge of its functions from the totals of the budget of the U.S. Government and exempt the Bank's operations from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the U.S. Government; (2) require, in accordance with the provisions of the Government Corporation Control Act, as amended, that the President transmit annually to the Congress a budget for program activities and for administrative expenses of the Bank; (3) require the President to report to the Congress not later than January 31, 1971, the amount by which the annual expenditure and net lending limitation imposed on the budget of the U.S. Government by title V of the Second Supplemental Appropriations Act, 1970, will be reduced as a result of excluding the Bank's fiscal year 1971 operations from the budget; (4) require the President to report to the Congress not later than September 30, 1971, with respect to the effect on the Bank's operations from its exclusion from the budget and exemption from the fiscal year 1971 expenditure and net lending limitation; and (5) provide that the provisions of the bill affecting the Bank will become effective on the date upon which the President submits to the Congress the required report on the reduction in the fiscal year 1971 expenditures and net lending limitation imposed on the budget as a result of enactment of this legislation.

Enactment of this bill will allow the Export-Import Bank the flexibility it needs in financing its operations over the next 2 years in order to increase substantially its support of the U.S. export trade. The Bank's statutory life expires on June 30, 1973. Prior to that time, the committee expects to conduct a thorough review of the Export-Import Bank activities during its consideration of extension of the Bank's charter, the Export-Import Bank Act of 1945, as amended, at which time the committee will review again the question of whether the Bank's operations should be included in the budget of the U.S. Government.

NEED FOR THE LEGISLATION

Congress established the Export-Import Bank as the principal U.S. Government agency having the responsibility and resources to assist in the financing of the U.S. foreign trade. Under its charter, the Export-Import Bank Act of 1945, as amended, the Bank was provided with broad authority to finance and manage its operations in the most economical and efficient manner in order to meet the changing needs of its only real client, the U.S. exporter. However, the flexibility which is required by the Bank to meet the demonstrated needs of the U.S. export community has been greatly curtailed since adoption of the unified budget concept under which the Bank's annual disbursements and receipts are included in the calculations of the overall budget of the U.S. Government. This budget restraint has deprived the Bank of the very flexibility it needs to support an increasing volume of exports at a time when the U.S. share of world trade is declining and the dollar is beset by a persistent imbalance in the U.S. international payments account.

While world trade has expanded at an average annual rate of 8.9 percent since 1960, the U.S. share of that trade during those years has dropped from 17.3 percent to 14.9 percent. The margin of U.S. exports over imports dropped from a high of $6.8 billion in 1964 to $428 million last year. Unless this trend is reversed sharply, there is little possibility of achieving a favorable balance of payments which, over the long run, affects the strength of the dollar.

At the same time that the total volume of world trade has expanded so markedly, international liquidity has increased by only 2.9 percent annually. The international liquidity shortage with its attendant increase in the need for offering financing on export sales, and buyers demanding credit terms that meet their needs, have forced U.S. exporters to extend credit on terms that will equal those offered by their foreign competitors if they are to be successful in the international marketplace and expand their export sales.

Until recently the Bank's facilities were required principally to assume risks and terms of repayment that were beyond the capability of the private sector. Under current and projected conditions, the Bank's facilities are required also to assure the export community of continuing liquidity for the financing of sales abroad and for making financing available at competitive rates when there is demonstrated need.

In response to the increasing requirement for competitive export financing, the Export-Import Bank has undertaken substantial revisions of its programs and operations over the past 2 years in order to obtain more leverage from its available resources. The Bank, for example, has increased the use of its guarantee and insurance authority and has required the participation in its credits by commercial banks and other private financial sources. Greater emphasis has been placed on active cooperation with private, international and public financial institutions at home and abroad. Through these various devices and the institution of several new programs, the U.S. exports supported by the Bank increased from $2.9 billion in fiscal year 1969 to $5.5 billion in fiscal year 1970.

Congress each year through the budget process establishes a ceiling for Eximbank annual loan authorizations. Bank loan disbursements follow these loan authorizations by an average of 2½ years and as long as 5 years after the date of commitment. It is, therefore, a distortion of the Bank's normal business to apply budget policy in the current year against trade policy previously agreed upon as long as 5 years earlier. The Bank's ability to fully utilize its authority and to fund its operations in the most economical manner is restrained by the inclusion of its annual disbursements and receipts in the calculations of the budget of the U.S. Government.

Eximbank does not require appropriated funds. Nevertheless, under the unified budget concept, first adopted in the fiscal year 1969 budget, Eximbank's net loan disbursements are accounted for as budget outlays, or expenditures, not loan receivables even though the money disbursed will return with interest; its collections from repayment of principal and interest on outstanding loans and so-called "sales of assets" are accounted for as receipts, or offsets to budget outlays. In periods of increasing need and rapidly expanding activity, such as the Bank is presently experiencing, disbursements exceed collections. The result is a "net lending outlay" from Eximbank activities in the overall annual Federal budget.

The negative impact on the budget attributable to Eximbank amounted to $246 million in fiscal year 1969, $219 million in fiscal year 1970, and is proposed at $195 million for the current fiscal year. However, for these same periods, under generally accepted accounting procedures (that is, where one kind of an asset—a cash disbursement—is exchanged for another kind of an asset—a loan receivable) the Bank's operations actually showed profits of $104 million in fiscal year 1969 and $110 million in fiscal year 1970.

The unified budget places a further restraint on the Bank in terms of the method that the Bank is required to use to fund itself. Although the Bank has authority under its charter to borrow up to $6 billion from the Treasury, it generally uses only around $1.5 billion of this authority for its daily cash requirements and had financed its operations primarily through use of the $1 billion stock, its accumulated reserves, funds collected from interest on loans and other fees, and borrowings from the private market.

Since adoption of the unified budget concept, however, borrowings from the private market through sales of participations in obligations held by the Bank or by issuance of the Banks' own obligations, such as debentures, are considered as borrowings and not receipts, and therefore, cannot be accounted for as budget offsets. Thus, the Bank in order to have the proceeds from such sales credited as budget receipts has been compelled to use a complicated and costly form of asset sale (Certificates of Beneficial Interest), which is difficult to market because it is nonnegotiable and not a familiar instrument to investors. In fact, the low net budget outlays attributable to the Bank in the last 2 fiscal years were realized only through this procedure.

The budget restraint has also precluded Eximbank from offering the support necessary to realize the export potential for U.S. suppliers of goods normally sold on short-term credits. Today more than 50 percent of total world trade is in commodities sold with short-term financing, including such important categories as agricultural products, chemicals, fertilizers, steel products and consumer goods. The U.S. exporter is facing increasingly severe competition in this field because of government supported financing offered by his foreign competitors.

If Eximbank is freed of its budget constraints, it proposes to extend its present medium-term commercial bank discount loan program to transactions moving on short-term credit. The Bank's medium-term program has provided a strong incentive for commercial banks to become involved in export financing because they are assured of the availability of funds if a liquidity-short situation develops. Extension of this medium-term program to cover short-term transactions, which could involve substantial budget outlays in its first year of operation, would further encourage commercial banks and other financial institutions to provide the financing necessary to assist increased U.S. exports in this important and extremely large area.

Eximbank activities result in a 100 percent direct, positive contribution to the U.S. balance of international payments.

Prompt enactment of S. 4268 as amended by the committee will permit the Export-Import Bank to provide the financial resources necessary if U.S. exporters are to compete aggressively and effectively with foreign competition. With the flexibility provided to the Bank as a result of this bill, the Bank will be able to create the stimulus needed to increase all segments of the U.S. export trade and thereby materially benefit the U.S. international payments accounts.

EXPLANATION OF PROVISIONS

S. 4268 amends section 2(a) of the Export-Import Bank as amended, by adding a new paragraph which provides that the receipts and disbursements of the bank shall not be included in the totals of the budget of the U.S. Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the U.S. Government.

The bill provides further that in accordance with the provisions of the Government Corporation Control Act, the President shall transmit annually to the Congress a budget for program activities and for administrative expenses of the Bank. Thus the Bank will continue to follow its current procedures, as required under that act, of submitting its annual budget to the President for approval and transmission to the Congress. The Congress will retain its oversight of the Bank's operations through the annual budget review process, as well as through the periodic reviews of the Bank's enabling legislation.

The committee was advised that although enactment of S. 4268 would enable the Bank to replace its present unsatisfactory method of obtaining funds by direct borrowings in the private market, the provisions of the Government Corporation Control Act require that any such borrowings by the Bank will continue to be subject to approval of the Secretary of the Treasury, both as to amounts and interest rates as well as the timing of the issues.

COMMITTEE AMENDMENTS

The committee has amended the bill to require two reports from the President in connection with this legislation and to provide an effective date for operation of the bill's provisions.

The committee amendment provides that the President shall report to the Congress not later than January 31, 1971, the amount by which the annual expenditure and net lending limitation imposed on the budget of the U.S. Government by title V of the Second Supplemental Appropriations Act, 1970, will be reduced as a result of excluding the Export-Import Bank's fiscal year 1971 receipts and disbursements from the totals of the budget of the U.S. Government. The amendment provides further that the authority as contained in S. 4268 will become effective on the date upon which the President submits this report to Congress.

The amendment also provides that the President shall report to the Congress not later than September 30, 1971, with respect to the effect on the operations of the Export-Import Bank of excluding the Bank's receipts and disbursements from the budget, as authorized in this bill.

Mr. MANSFIELD. Mr. President, that concludes the call of the calendar for the time being, but it is anticipated that

after Senators have had an opportunity to study the reports other unobjected to items on the calendar will be called up during the course of the day.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The ACTING PRESIDENT pro tempore. At this time the Chair lays before the Senate the pending business which the clerk will state.

The LEGISLATIVE CLERK. Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the Chair now recognizes the distinguished Senator from Delaware (Mr. BOGGS) for 1 hour.

SENATOR JOHN J. WILLIAMS, "MR. INTEGRITY"

Mr. BOGGS. Mr. President, the end of the 91st Congress is now in sight. And it brings to a close the senatorial career of a great man who has served this Nation with distinction for 24 years.

It is a particularly great privilege for me to join at this time in paying tribute to a most distinguished colleague, my close friend and fellow Delawarean, Senator JOHN J. WILLIAMS. The man who has been labeled "Mr. Integrity" by the American press and public has chosen to retire, and will be sorely missed by his colleagues and by the American people.

In 1946, a poultry farmer and feed dealer from the small southern Delaware town of Millsboro was elected to represent the State in the U.S. Senate. He came to Washington and this Chamber quietly, without fanfare, in his typically unassuming manner. He has been here 24 years and has earned a reputation for diligence and integrity.

He has steadfastly guarded the taxpayer's dollar, and his mastery of the intricacies of government is the envy of many an economist and accountant.

Although he went no further than high school, he has more than held his own against lawyers and college professors in the course of heated debate when it was apparent he also had mastered the complex rules of this body.

Many Presidents and presidential advisers have known well the depth of his knowledge of their complex proposals on taxation, social security, and other subjects considered by the Finance Committee on which Senator WILLIAMS serves as ranking Republican.

He has worked hard to attain his position and knowledge. Many nights JOHN WILLIAMS has spent at his desk, toiling on the affairs of the Nation.

My fellow Delawareans admire him for his honesty and hard work and for the public notice he has focused on our small State.

I am proud to say I know JOHN WILLIAMS well, for we entered public service together in 1946. I was honored to be on the same ticket with Senator WILLIAMS. I was able to observe him from the other body, later from the Governor's chair, and the admiration and respect engendered by him and his abilities have multiplied enormously over that span of years. I have been proud to serve with him and have often sought his sage advice and wise counsel.

It has been history in the making to watch JOHN WILLIAMS for the past 24 years. Through it all, he has become the symbol of high principle and good government, withstanding immense pressures to maintain his stature. His conduct of office is an example for public servants at all levels of government.

The Nation's press has labeled him variously as "watchdog of the Nation," "Mr. Integrity," and "conscience of the Senate." All of those labels and other complimentary titles have been earned by the distinguished gentleman. His own decision to retire is indicative of his intense dedication to principle. Firmly believing that no one should run for office beyond the age when most corporations require their employees to retire, Senator WILLIAMS, despite a sharp mind and able body has chosen to leave.

He returns to his native Millsboro much the same as he came—quiet and unassuming but with the Nation's praise for his dedication. National fame has not changed him although he helped to change this Nation. He takes with him his storied files, chronicling many untold incidents that he deems either unfounded or not fully documented.

The Nation's Capital will miss JOHN WILLIAMS and his wife, Elsie, when they leave. Mrs. Williams, in her way, has been as active as her husband in his. She was president of the Congressional Wives' Club and has been involved in many worthy projects in Washington.

In his departing wake, Senator WILLIAMS leaves a nation better for his coming. As an American and fellow Delawarean I would like to thank Senator JOHN J. WILLIAMS for his valuable service and wish him well in his new endeavors.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Delaware yield?

Mr. BOGGS. I am happy to yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished junior Senator from Delaware—who will soon become the senior Senator from the First State—in his remarks concerning the departure of our able and distinguished colleague, the senior Senator from Delaware, JOHN J. WILLIAMS.

Mr. President, it was with the deepest sense of personal regret that I noted some months ago Senator WILLIAMS' statement that he would not be a candidate for reelection. It is with that same sense of deep regret that I observe his departure from this body—not that we have always shared the same views—far from it. But at least we have been at all time open with one another. At all times, we knew where each stood; and most important perhaps, we respected each other's opinions.

Senator WILLIAMS has performed an outstanding job, and I use the word "job" advisedly, in carrying out his watchdog activities and in performing in a way that has tested the mettle of us all.

It was not an easy job Senator WILLIAMS undertook to perform. But it certainly was a most necessary job. It is my fervent hope that the foundations laid by this outstanding Senator will not crumble away with his formal departure at midday of January 3 of next year. What he has done, has had to be done. What he performed, had to be performed. And he did it all with great diligence and, I may say, impartiality. On that latter score, as far as JOHN WILLIAMS was concerned, in matters of financial integrity, it mattered not whether it was a Republican or a Democrat or an Independent who was involved. All were treated alike.

On so many occasions it was a thankless task; but necessary, nevertheless. The Senate is fortunate.

It will miss JOHN WILLIAMS. But what he will leave behind is a monument; a monument to integrity, to proficiency, to honesty and efficiency. What he has established is a high standard to which all of us may aspire and, hopefully even achieve at times.

John Williams is a great Senator. After his departure it will be said that he served this body, the State of Delaware, and the Nation well and faithfully. There could be no greater tribute.

Mr. BOGGS. Mr. President, I thank the Senator for his fine remarks. I know that we all appreciate them.

Mr. President, I yield now to the distinguished senior Senator from Utah (Mr. BENNETT).

Mr. BENNETT. Mr. President, there often seems to be some kind of pattern in the ways of Providence which brings to difficult situations men with the character, the ability and the attitude that the times demand. Such a man is JOHN WILLIAMS.

It has been my great privilege to serve in the Senate for part of his years of service, to have been seated with him on the Finance Committee, and to have had the benefit not only of his wisdom but also of his deep and abiding personal friendship.

One makes friends in the Senate—unfortunately, not too many. The Bennetts feel that they have been greatly blessed by the privilege of associating with JOHN and Elsie Williams.

At the risk of sounding a slightly different note and in the hope that JOHN will not misunderstand, he has not only been labeled the conscience of the Senate, but in some respects he is also a very deceitful man. He creates the impression of being very modest and retiring, almost shy, but underneath that appearance is a will of iron and the kind of backbone that keeps a man erect in the face of almost every kind of opposition.

He has often been labelled as a chicken farmer, the inference being that he is some kind of country bumpkin. But be-

ginning with his very earliest experience in the Senate, the IRS discovered that this man was no country bumpkin. And they and others have rediscovered it many times since. Many people who thought they could outwit him, including some in the leadership of the Senate on occasion, have also discovered that he does not fit that picture.

There are many people who had looked at JOHN WILLIAMS and said that with his high school education he could not possibly know very much about the important problems we face in Government. But as his junior colleague has said, those of us who from time to time have tried to contest with regarding the meaning or use of the rules of the Senate, or statistical or historical information have frequently found that he was two steps ahead of us.

I am happy to admit that I have been one of those.

I am a little disturbed at JOHN's latest effort, in sponsoring a Constitutional amendment which would say that a person who reaches the age of 65 should not run for the Senate. I am one of those who, by having already violated that rule by inference, being condemned by that statement.

I am sorry that he is going to deprive us of his further services on the basis of an application of a principle. But that is JOHN WILLIAMS. He develops a principle and applies it first to himself. That is one of the reasons we honor him.

I am sure all of us are sorry to see him go. But I serve notice on him that he cannot move to Delaware and get away from his friends in the Senate including the Bennetts. We all want to maintain our pleasant relationship with the Williamses.

Mr. BOGGS. Mr. President, I thank the Senator from Utah.

I yield next to the distinguished senior Senator from Alabama.

Mr. SPARKMAN. Mr. President, I certainly want to join briefly in these remarks concerning JOHN WILLIAMS. I have expressed to him personally my regret that he is leaving the Senate.

I share the feeling of the distinguished majority leader I also have not always agreed with JOHN WILLIAMS. But on checking back I found myself in agreement so many times that one day I said to him, "You know, JOHN, in checking my voting record with yours, I have found that I voted with you nearly all of the time." He did not make any reply.

One time when the late Ralph Flanders—whom most of us remember quite well and favorably—was a Member of the Senate, I said to him, "Ralph, I have looked over your voting record. I find that you and I have been voting very much the same."

He said, "Yes. That is what bothers me."

I do not believe that it bothered JOHN WILLIAMS that I was in agreement with him on so many occasions.

We came here about the same time. I came about 2 months before JOHN WILLIAMS did. I came in November, since it was a special election.

I have enjoyed my service with him. I regret seeing him leave the Senate.

I must take note of what Senator BENNETT said about JOHN not wanting to let any Representative or Senator run for reelection after he is 65. Senator BENNETT is all right. He was reelected 2 years ago. But I have an election coming up in 2 years. Not only would I become ineligible under the amendment to run again, but also I would have to quit the Senate now as I have reached the age of 70.

As a matter of fact—this is Friday—day after tomorrow I hope to pass another milestone.

JOHN WILLIAMS has been a bulwark of strength in the Senate. As Senator BOGGS said, he has been able to match the best legal minds, the best lawyers, the best philosophers, and so forth. I thought he might have added Members of the Senate because JOHN WILLIAMS never has to give way to anyone when he believes he is right.

I have admired him and enjoyed my service with him. I regret seeing him leave the Senate. I wish to add that I also regret seeing Mrs. Williams leave the Senate. We have known her throughout the years and I have admired the very fine support she has always given to her distinguished husband.

JOHN, we shall remember you, and we hope you will come back to visit us often, if you allow us to stay here. We shall always remember the fine work you did in the Senate during your years here.

Mr. BOGGS. Mr. President, I yield to the chairman of the Committee on Finance, the Senator from Louisiana.

Mr. LONG. Mr. President, I regretted deeply to learn that the distinguished senior Senator from Delaware was planning to retire at the end of this session. I am one of the many Members of the Senate who went to him and asked him to reconsider that decision. He has been one of the most diligent, if not the most diligent Member of this body. He has been a stalwart advocate of everything that his conscience would permit him to support and as vigorous opponent as anyone ever faced in this body with respect to those things his conscience would not permit him to support.

Some time ago I thought the attendance record of the Committee on Finance might increase if I kept a record of the time each member spent in executive sessions of the committee and committee hearings. If that record served no other purpose it kept the chairman there more than he would have been there otherwise because I discovered the senior Senator from Delaware was present for more hours and minutes than any other member of the committee; and try though I would to keep up with his record and to be there every moment he was there, I still could not catch up with him. He holds the record, without knowing the race was on, for being the most diligent member of the committee as well as probably the most effective member of the committee.

When he is for something he is the greatest ally one could have; when he is opposed to something there is no one who makes a greater fight to the end and makes it more difficult to enact a measure that he opposes than does the Senator from Delaware.

It is interesting to note that the Senator from Delaware has never engaged in filibustering. That is quite a record for one who has opposed so vigorously measures his conscience would not permit him to support. He is such an able parliamentarian that usually the matter winds up with someone else doing the filibustering.

I regret very much I will no longer see the senior Senator from Delaware across the aisle. I had looked forward to the day when the fortunes of politics would make him the chairman of the committee and I would be his ranking member. In seeking his support through the years I have told him, "The time will come when you will be the chairman of the committee and you will be seeking my help as I am now seeking your help." Apparently the Senator was not planning on that when he made his decision to retire.

Nevertheless, the record will show that no other Member of this body was more diligent than he in enacting measures to punish corruption, to prohibit corruption in the future, and to preserve those things about this Government that protect the public generally.

From time to time some of us have felt it necessary to support measures when we felt some particular individual or some particular concern in our States or among our constituents was getting the worst of it, and we felt that relief of some sort was in order. There has never been anyone who defeated more bills that sought relief in connection with individual problems than the Senator from Delaware because of his view that if a measure could not be passed for the benefit of a broad swath of people he did not like to see it passed at all.

From time to time some of us have had a very good case which would almost bring tears to one's eyes, but we could not persuade him to go along with it. But he has been persistent in his belief, and he has showed no favoritism to anyone.

Some years ago a measure was before us seeking relief from an unexpected court decision involving the DuPont Co., perhaps the largest constituent in the State the Senator represents. After virtually everyone else agreed to it, including the Senator who was then his colleague, and who was also the sponsor of the measure, the senior Senator from Delaware opposed it and, of course, it did not pass. It was years later before we were able to pass a measure which seemed to be fair to all concerned by the lights of the senior Senator from Delaware. That did not make him popular with the most prominent constituent in his State, but it demonstrated once again his devotion to the principle that legislation should have a broad application to all citizens and that he did not feel we should be doing something that would pick out the problem of one particular constituent and seek to solve that problem without solving the problems of many other people at the same time.

I regret very much that the Senator has made the decision that he has made. He has been relentless and determined

in it and never has been kidding anyone about it.

Having observed politics down through the years, when one, who has many vigorous years ahead, announces his intention to retire, it is usually par for the course that he is urged to reconsider. He usually does reconsider, and he runs again and makes the sacrifice for one final round. In view of the fact that many of us felt he is vigorous and has many good years ahead of him, we hoped he would reconsider and make the race for one more term, which would have been assured had he run; but we found he was determined in his view and would not reconsider. And so he will not be with us when the new Congress convenes next month.

Mr. President, we suffer a great loss in the Senate. He has achieved as much as anyone has in this body. Not only has he placed many good laws on the books but he has also defeated a lot of bad laws.

So, as one who has performed and as one who has made himself a place among the greats in the Senate, he is entitled, if he wishes, to retire and leave this body in glory, and that he certainly does. He leaves a record that should be the envy of every Member of this body.

Mr. President, I salute my distinguished colleague and I hope that from time to time he will favor us with a visit to the Senate, because he has many good friends in all the Members of this body who have served with him.

Mr. President, at its last meeting, on December 11, 1970, the Committee on Finance, adopted a resolution of appreciation for the long service of the distinguished senior Senator from Delaware as a member of the committee. I ask unanimous consent that the resolution be printed in full in the RECORD at this point.

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

Whereas, John J. Williams, of Delaware, has served honorably and faithfully as a member of the Committee on Finance since January 15, 1951, and also so served from January 10, 1949, to January 12, 1950, and

Whereas, John J. Williams has served with high distinction as the senior Republican member of this Committee since January 3, 1959, and has demonstrated exemplary diligence in attending public hearings and executive sessions of the Committee, and

Whereas, John J. Williams has generously devoted his knowledge and energy to the consideration of the many complex issues before this Committee during these periods, and

Whereas, John J. Williams has unceasingly advanced the development of legislation relating to trade, government finance, and social welfare in execution of the broad responsibilities of this Committee: Now, therefore, be it

Resolved, That the Committee on Finance hereby expresses to John J. Williams its sincere appreciation and gratitude for his outstanding contributions to the fulfillment of the obligations of this Committee, for his faithful and devoted service as a member of this Committee, and for his untiring efforts as the senior Republican member of this Committee.

Mr. LONG. Mr. President, Senator WILLIAMS has served on our committee continuously since January 15, 1951. He also served from January 10, 1949, to January 12, 1950. He has been the senior Republican member of our committee since January 3, 1959. I am sure it comes as no surprise to anyone that Senator WILLIAMS has been extraordinary in his faithful devoted service to the committee.

JOHN WILLIAMS has served 24 years in the Senate and it is well known among all our Members that if anyone deserves the title of a great statesman—it is JOHN WILLIAMS. During the years that I have served with Senator WILLIAMS, both on the committee and in the Chamber, I have come to respect and frequently acknowledge that he has one of the highest degrees of personal integrity of anyone I know.

As we all know, he has been given the title of the "Conscience of the Senate." Anyone who has worked with Senator WILLIAMS knows that this title is well-deserved. He has always made his positions clear and voted as his conscience dictated. Sometimes, there were only two or three Members of the Senate in agreement with JOHN on certain of his proposals. I am sure that Senator WILLIAMS at those times may have felt a little lonesome—however, I have observed that a person who feels he must follow his conscience and make his point—regardless of the consequences—does not always find himself with the crowd. In fact, one of the more familiar phrases I have heard JOHN WILLIAMS use is "I would certainly have welcomed your support 2 years ago when we first voted on this matter."

At this point, I would like to repeat one of Senator WILLIAMS' favorite stories about his vote and my vote on one of our oil questions. As I am sure most of you know, JOHN WILLIAMS and I have very different and opposite viewpoints on the oil depletion allowance. I have always maintained that this part of our tax law helped develop this country to the world position of leadership that it now has. I continue to feel that it would be a mistake to remove this incentive. However, JOHN WILLIAMS does not share this viewpoint. During the committee's deliberations on the Tax Reform Act of 1969 last year, an important vote was called on reducing the oil depletion allowance. To put this vote in proper prospective, I should explain that the committee had first voted on a motion to retain the percentage depletion allowance at the present 27½ percent. That motion, made by me, was defeated. The next motion was to decrease the oil depletion allowance to 23 percent. At this point Senator WILLIAMS maintained that it should go at least to 15 percent. However, because the previous vote had failed, I voted for the 23-percent oil depletion allowance; JOHN WILLIAMS voted against the 23-percent rate because he believed it should be reduced even further. Since that time Senator WILLIAMS has said several times:

After battling Russell Long for 20 years on the oil depletion rate, when it finally came to a vote to reduce the oil depletion allowance, I found myself voting against the decrease and Russell Long voting for it.

To me the life of JOHN WILLIAMS is a magnificent example for our young people to look at—without question he has been a dedicated public servant. Senator WILLIAMS will be sorely missed in this body and his position will not be easily filled.

Mr. BOGGS. I thank the Senator. I yield now to the distinguished dean on the Republican side, the Senator from Vermont.

Mr. AIKEN. Mr. President, there are 2 hours frequently observed by this Senate which do not particularly appeal to me.

One is the alibi hour, and every Senator knows what that is.

The other is the eulogy hour during which we pay our respects to one of our Members who is leaving us and whom we hate to see go.

Today we are telling for the record what we think of JOHN J. WILLIAMS who is voluntarily retiring after having served 24 years in this Senate as the senior Senator from Delaware.

I do not know just what to say about JOHN J. WILLIAMS.

As I have intimated, I find these occasions rather depressing, and particularly so in this case.

I think I have voted with JOHN considerably more than half the time since we have served here together.

I think I am safe in saying that not a Member of this body wants him to retire at this time.

There may be, in fact I am sure there are, some people in this country who will think that JOHN'S retirement may be a cause for rejoicing on their part, but if there are such I want to warn them that things may not turn out the way they would like to have them just because the senior Senator from Delaware is becoming a civilian once more.

He has in the past incurred the wrath of a good many people because he has refused to see things in their way and to do what they wanted.

He seems to have had a stubborn belief that people who can afford to pay taxes and ought to pay taxes should pay taxes and has opposed special legislation which might permit them to avoid their just share of this burden.

It is safe to say that he has been responsible for blocking a good many handouts for States and community enterprises some of which no doubt may have been worthy, but many of which, I am sure, were less worthy.

It is safe to say that he has insisted on plugging loopholes in some of our laws which permit certain groups of people to enjoy privileges which were denied to others.

It may be that some of our Federal agencies in the executive branch of Government will feel that with JOHN WILLIAMS out of the Senate they will not have to be quite so careful in making reports to the Congress, but I want to tell all these people right now that just because JOHN WILLIAMS and his very patient and understanding wife, Elsie, are retiring to Delaware it does not necessarily follow that these people to whom he has been a nemesis in the past will find the traveling any easier.

Yes, JOHN WILLIAMS is retiring from this Senate, but he is reasonably young

and able bodied and unless I am mistaken is likely to become a leader among the taxpayers and the public of this Nation.

So I say to these people that JOHN J. WILLIAMS, leader of public opinion, will undoubtedly wield as much influence in shaping the future of this Nation as did Senator JOHN J. WILLIAMS as a Member of this body.

We do hate to have him go.

Mr. BOGGS. I thank the Senator.

Mr. President, I now yield to the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Mr. President, if it were not for the provision in the 13th amendment to the Constitution which provides—

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction—

I would offer a resolution requiring JOHN WILLIAMS to continue to serve in the Congress of the United States the rest of his days. I would also ask for its immediate consideration, and I daresay it would pass without a dissenting vote.

During this brief period of 1 hour for us all to speak, we cannot do justice to the record of this most unusual man. It would be my hope that at the conclusion of these several remarks today our distinguished friend the junior Senator from Delaware (Mr. BOGGS) would ask unanimous consent that the RECORD be kept open for the remainder of this session, including the final issue of the RECORD, so that those of us who have spoken might add to that material and so that many other Senators might express themselves on the public record of our beloved friend, JOHN WILLIAMS.

We could say a great deal about Senator WILLIAMS' ability, about his keen mind, about his ability to see through a proposition, his ability to understand what a legislative proposal will really accomplish. He is one of the most astute individuals that I know. He has exceptional ability. His devotion to duty, whether it is in attendance here on the floor or in committee, is most unusual, far beyond that which has been designated as the best up to now.

Oh, it is true, the Senate has not always agreed with JOHN WILLIAMS, but I dare say the United States would be better off if the Senate had agreed more often with him. It is true his political party has not always followed JOHN WILLIAMS, but it would be a greater party today if it had. It is true that not every Republican administration has conformed its policies to the principles enunciated and lived by JOHN WILLIAMS, but it would have been a greater administration and would have served this beloved Republic of ours better had it done so.

All of us in the Senate will miss him, but there is something far sadder about JOHN WILLIAMS' departure. The youth of the land have lost their best friend. As we see the ravages of inflation, as we look at the mounting fiscal problems of this country, as we see a moral decline—and I hope the decline is coming to a halt—as we see all those things, then we can get an idea of how much better a country we would have had if there had been 100 Senators like JOHN WILLIAMS.

The lot of all Americans of the future will be better because JOHN WILLIAMS served in the U.S. Senate.

Mr. President, we cannot, in one speech or a dozen speeches, do justice to this great man. He has done so much for our country.

Mr. BOGGS. I thank the Senator.

I yield now to the distinguished Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, we have set aside today to pay tribute to one of our most distinguished Members who chose not to return to the Senate at the end of his present term. My friend and colleague, Senator WILLIAMS of Delaware, has been a Member of the Senate for 24 years. Each year has seen him gain in stature and reputation. He is a man of steadfast devotion to principle and of impeccable integrity.

I know that the Senate will miss him, and that the State of Delaware will miss him. However, the greatest loss will be felt by all of the people of the United States who have become accustomed to looking to him for leadership in the never-ending battle to protect the taxpayers from both illegal and unwise expenditures by the Federal Government. Undaunted by political expediency, Senator WILLIAMS has regularly exposed and opposed excessive and improper appropriations with skill and dedication. His record in this area alone has created for him an outstanding reputation as one of the leading Senators.

In terms of personal qualities, the name of Senator JOHN WILLIAMS has become synonymous with integrity. He has set for himself the highest of standards and has always met them successfully. Both by his example and his belief that those in positions of public trust should do likewise, he has been a steady influence in favor of honest and upright conduct.

Another personal quality of Senator WILLIAMS is his ability to master the intricacies of complicated economic problems both in legislation and in administration. When Senator WILLIAMS challenges a bill or a practice, his capacity for handling with ease a veritable maze of facts and figures is always impressive. He conducts himself with great ability and extensive knowledge of the subject in debate on the Senate floor.

Far more often than not I have found myself on the same side with Senator WILLIAMS on the issues. However, I believe it is fair to say that Members of this body have always retained the utmost respect for Senator WILLIAMS even when finding themselves on the opposing side from him.

Mr. President, it is always reassuring to see a man receive recognition for his accomplishments. Perhaps the honors accorded to Senator WILLIAMS are not commensurate with his contributions, but nevertheless the list of distinctions is impressive. Last year Senator WILLIAMS was honored for his distinguished service in the Senate by the first annual Conservative Awards Dinner sponsored by National Review, Human Events, Young Americans For Freedom, and the American Conservative Union. In addition, he has been honored by Americans For Constitutional Action, the American Political Science Association, Newsweek, and Nation's Business. He has gained the respect of both his political friends and foes.

Mr. President, I truly regret the decision of our distinguished colleague from Delaware not to seek reelection. He has won election to the Senate four times and no one doubts that he would have been elected to a fifth term had he chosen to run. His quiet effectiveness in promoting high principles will be genuinely missed by the Members of this body.

Mr. President, I could not take my seat without referring to the Senator's devoted wife, Elsie Williams. She is a lady of high principles and lofty character, whose life is well worth emulating. She has made Senator WILLIAMS a devoted companion, and has inspired him at all times.

Mr. President, Human Events recently featured an article on the career of Senator JOHN J. WILLIAMS which deserves the attention of the Senate. I ask unanimous consent that the article, "Not Retiring, Just Changing Jobs," which appeared in the November 28, 1970, Human Events be printed in the CONGRESSIONAL RECORD following these remarks.

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

NOT RETIRING, JUST CHANGING JOBS: THE AMAZING SENATE CAREER OF JOHN J. WILLIAMS DRAWS TO A CLOSE

(By Carol D. Bauman)

(NOTE.—Mrs. Bauman has been editor of the New Guard, a member of the publicity staff of the Republican National Committee and director of publications for the American Conservative Union. A free-lance writer whose articles have appeared in several magazines including National Review, Mrs. Bauman last year moved with her family to the quiet of Easton, Md., after serving for seven months on President Nixon's White House staff. Her article, "Is the 'Freedom of Information Act' Really Working?," was in the May 30, 1970, Human Events.)

In describing Delaware's senior Sen. John J. Williams, usually cautious reporters can't seem to resist superlatives. They will characterize him with phrases that could only apply to a computer, a trained German shepherd, or the most exceptional paragon of virtue ever to sit in the U.S. Senate.

"Fiscal bloodhound! Watchdog of the Senate!" they call him. "Indefatigable! One-Man FBI! Conscience of the Senate! they crow. In his 24 years in the Senate, Williams' press notices have nearly always contained descriptive phrases like "conservative, conscientious, scrupulous, shrewd, folksy, frugal, honest, persistent, sensible, taciturn, homey, and thorough," and many more.

It was with great regret, therefore, that his many friends and supporters learned earlier this year that he would definitely "retire" from the Senate at the end of his current term. But the senator wouldn't put it that way. To him, leaving the Senate is simply a matter of "changing jobs."

Twenty-four years in any career ought to be enough, he believes, and it's now time for a new one. What that new career will be, he isn't telling. But a review of the one he is leaving is cause for hope that the "new career" will be something that will be just

as beneficial to his country as was the old one.

The 66-year-old lawmaker, whose slender, erect carriage, thinning gray hair and bushy eyebrows mark him as a familiar figure on the Senate floor and in the Senate Finance Committee, is unfortunately not a "household word" to most Americans. In fact, many citizens, who really believe the old cliches such as "every man has his price," would find it hard to understand that such a giant of integrity actually serves them in an elected capacity.

And if Sen. Williams has one fault (surely, this devout Methodist and champion of public honesty would admit to having one), it is that he has little glamour and his style of politics therefore gets few imitators. His own publicity during 24 years in the Senate was usually overshadowed by the very scandal he was exposing. Most everyone remembers those charlatans Sherman Adams and Bobby Baker. But how many—outside Delaware—recall the name of the man who did the groundwork that led to their exposure?

The good that Sen. Williams has done will live after him, of course, but because he lacks glamour, his example might be lost on some of the idealistic young. A pity, because no one could more exemplify the idealism of a man thoroughly devoted to the concept that government is the servant, not the master of men, that his low-keyed, upright, self-educated former chicken-feed dealer from the Eastern Shore of Delaware.

"Sen. John J. Williams, Republican of Delaware, was born on May 17, 1904, on a farm near Frankford, Del., the ninth of 11 children. He attended Frankford High School and in 1922 moved to Millsboro, where . . . at the age of 18, he entered the grain business."

So begins the official biography which one is sent by the Senator's office in Washington.

"The senior senator from Delaware first sought public office when he successfully ran for election to the United States Senate in 1946. He was re-elected to a second, third, and fourth term in 1952, 1958 and 1964. At that time he became the first man in the history of the state of Delaware to be elected to four consecutive terms in the United States Senate."

So the biography continues. It also tells us he married the former Elsie B. Steels of Millsboro at the age of 20. They had one daughter, and now have three granddaughters. The biography also tell us he is a Methodist, a Mason, a Shriner, and a Rotarian.

No college degrees, no military service. Not even a bank presidency, or membership on the national board of some charitable, social or educational group.

Sen. Williams, who with his brother started a chicken-feed business (Williams' Super Feed) in Millsboro in 1922, became a wealthy man by dint of hard work, thrift and hard-nosed business practices.

In 1946, at the age of 42 he decided he had made enough money in chicken-feed, and leaving his brother to mind the store, set out on a second career. He determined to run for the U.S. Senate. He had never even met the state Republican chairman, he recalls, and has observed since that the party leaders were a bit peeved at his brashness for wanting to start at the top without consulting them.

"But I went into it on the principle a man has a right to seek office in this country without the consent of anybody," he says. Today, he acknowledged during an interview in his Capitol Hill office, that might be a little more difficult than it was in 1946. And, he says, "in a small state like Delaware you can do a lot more than you can in a large state."

Hitting the road to gain name identification and make his views on the issues known, he covered the little state from one end to the other. Before other Republicans realized what was happening, he had the nomination and then went on to beat his Democratic opponent by 12,000 votes out of the 113,500 cast. Then, as now, he says that the trend toward centralization of powers in Washington was his greatest concern.

He had no trouble being re-elected the next three times. There is no question but that he would be re-elected to a fifth term if he chose to run again. Williams says today that he detects a "conservative trend" in the country, despite some unpopular moves by the President.

When reminded of some recent public opinion polls showing that the voters were not leaning heavily Republican, he said:

"I ran four times and three times the polls said I would lose. I think you can get a 'feel' at election time just by talking to people and reading your mail. I have the feeling that the liberals are going to suffer in the '70s."

In 1964, despite the landslide win by Lyndon Johnson, Sen. Williams won re-election by a wide margin, outpolling all other Republicans in the state. How he survived the Democratic trend of that year is testimony to the staying power of a man whose first principle in politics is scrupulous honesty.

In that election, two Republican state legislators were found to have violated ethical standards for public office, and the party asked them to step aside. When they refused to do so, Sen. Williams renounced the support of anyone who supported them. The tainted state legislators were defeated, but Williams was victorious.

In 1947, Williams' first year in the Senate, the late columnist Drew Pearson said he was "out of place" in the Senate. "Class D Rating," Pearson pronounced. Pearson proved to be 100 per cent in error. And, as the senator points out with a grin, later on Pearson found reason to praise his war against corruption.

The affirmative judgment of Williams by the press, by political organizations, and by his peers in the Senate, is nearly unanimous.

In 1951, *Look* magazine called him "The Man Who Broke the Tax Scandal." (The Internal Revenue Bureau corruption unearthed by the Delaware sleuth led to the 1952 GOP campaign cry, "The mess in Washington!") In 1962, *Reader's Digest*, one of Williams' biggest supporters, termed him "The Senate's One-Man FBI." In September 1966, *Reader's Digest* again praised the senator in an article by John Barron entitled "The Case of Bobby Baker and the Courageous Senators."

In a 1960 *Newsweek* magazine poll, Washington correspondents chose Williams as one of the 10 most effective members of Congress. *Nation's Business*, in December 1969, featured him as the "giant" who is leaving the Senate.

There have been other honors. The American Political Science Association selected Williams in 1959 as one of four members of Congress to receive its first annual award for distinguished service. In 1960 Americans for Constitutional Action (ACA) chose Williams as its "outstanding conservative member of Congress," and in 1961 presented him with its Distinguished Service Award. In 1969 Sen. Williams, together with his counterpart in the House, Rep. H. R. Gross (R-Iowa), was honored by the first annual Conservative Awards Dinner sponsored jointly by the American Conservative Union, *National Review*, Young Americans for Freedom and HUMAN EVENTS.

Sen. Williams announced his decision to retire from the Senate on Feb. 18, 1969. Characteristically, he issued a straightforward press release, three single-spaced pages, explaining his decision and using it as an occasion to promote the adoption of a mandatory retirement age for members of Congress.

"I have long advocated a reasonable age limit for the top executives of government comparable to the practice in private industry. The federal government accounts for annual expenditures of nearly $200 billion, and it has always been my contention that the affairs of the government should be operated on a more businesslike basis."

Williams, who is 66, pointed out that if he served another term he would be 72 at the end of it, and would be two years beyond the age at which he believes all government officials should retire. He cites the fact that the Supreme Court has three members past 70 (one past 80) and that many district courts are presided over by federal judges well past normal retirement age. The result, says Williams, is slower action, delayed decisions, and ofttime, decisions prepared by assistant law clerks.

Sen. Williams notes that elderly public servants are often pressured into running for another term with appeals to party loyalty. Usually they would prefer retirement, but are talked into running for fear of letting their supporters down. Such officials would probably welcome a mandatory retirement age so they could retire with a minimum of guilt, Williams says. Many, he says, serve well past the age at which they can really be of service, thereby risking a failure both of health and neglect of duties, or death in office. Some ultimately face defeat by the voters who can see the incapacitating effects of age.

"I'm a firm believer that a man should live by the rules he lays down for others," Williams says. And thus, at the age of 66, he leaves the Senate at the end of 1970, even though, as Sen. Russell Long of Louisiana, chairman of the Senate Finance Committee says, he "has failed to convince me that he is doing the nation a favor by insisting on retiring."

The question inevitably arises—who will replace Williams as the Senate's most alert crusader on spending, taxes and corruption?

"None of us is indispensable," he says modestly.

But, who, among some of the younger senators, does he see taking on his role in the future?

"There are lots of able men," the senator says with a grin, and refuses to name them.

How does it feel to complete 24 years in the Senate?

"Well, to quote another retired senator I admired greatly," he smiles, "when I first came to the Senate, I looked around and wondered how in the world I ever got elected to a body of such able and wise men. Now, I look around and wonder how the devil some of these men ever got here."

Pressed to name some of the greatest senators with whom he has served over his 24-year career, Williams concentrates a while and firmly replies: "Harry Byrd, Sr., of Virginia, Walter George of Georgia, Robert Taft Sr., Arthur Vandenburg, and former Sen. Tydings of Maryland (father of the present Maryland senator)."

Questioned about the alleged disillusionment with the American system among some segments of American youth, Sen. Williams replies:

"Youth are idealistic, and when they see evidence of corruption in high office, they hastily blame it on the 'system.' It is our duty to make them see that a few bad apples don't make the system bad. But we should show them that we will do something about the corruption, even though these men may be our own buddies.

"People will only respect [elected officials] if we respect ourselves," Williams says. "And if we have any self-respect at all, we will expose the corruption and get rid of the unprincipled men among us."

Sen. Williams has always enjoyed a reputation of being thorough in the extreme when it comes to legislation in the fields of finance and honesty in government. It is here that he has built a reputation for being a "conservative," a title he warmly embraces.

The intricately constructed statements he releases to the press so frequently are the product of intense research, reading and investigation on matters not generally known to the public. And the senator himself is the man behind the work.

According to him, that's one reason why he has never joined the Washington party circuit. And it also explains his effectiveness. Singleness of purpose in all his endeavors has produced a legislative record that is remarkable for its consistency, and its independent attitude.

Taking 1969 as a sample year, the impossibility of fitting him into a neat pigeonhole becomes evident.

Using statistics supplied by the respected *Congressional Quarterly*, one gets an interesting picture.

The most significant statistic is found under "Bipartisan Roll Calls," as tabulated by *CQ*. These are the votes on which a majority of voting Democrats and a majority of voting Republicans agreed. In tabulating opposition, *CQ* explains, it takes the percentage of bipartisan rollcalls on which a senator voted "yea" and "nay" *in opposition to the bipartisan majority.*

Since bills passed by bipartisan majorities are often the kind of bills that it takes great political courage to oppose, the number of times a senator or congressman registers such opposition is of more than passing interest.

In the House, Rep. H. R. Gross (R.-Iowa) led in opposition with a score of 52 per cent. Gross and those who follow him in leading "bipartisan opposition" scores are all hard-core conservatives.

In the Senate Sen. John J. Williams led in the number of times he opposed bipartisan rollcalls—39 per cent of the time in 1969. He is followed by Senators Edward Gurney (R.-Fla.), Carl Curtis (R.-Neb.), and Strom Thurmond (R.-S.C.). In 1967–68, Sen. Williams' total opposition to bipartisan votes was still a high 33 per cent.

The Delaware senator was not among the nine top scorers when it came to over-all support of legislation backed by President Nixon. Instead, he was *third* in his over-all *opposition* to the President, trailing Senators Hatfield of Oregon and Cook of Kentucky. The percentage of times Sen. Williams opposed President Nixon during 1969—33 per cent—equaled the opposition scores of liberal Senators Case of New Jersey and Javits of New York. But, you may be sure, his votes were on totally different issues! Sen. Gurney of Florida, also a conservative, had a 32 per cent opposition to the President score for 1969. Even so, Sen. Williams' overall support score for President Nixon's policies on rollcalls was a respectable 67 per cent.

Still further evidence of Williams' maverick voting performance may be seen in his scores under *CQ*'s "Conservative Coalition" ratings. Williams' name does not appear in the top seven for 1969. He supported the conservative coalition 67 per cent of the time, and opposed it 32 per cent of the time in 1969.

Sen. Williams' party unity score in 1969 (percentage of 89 Senate rollcalls on which he voted in agreement with a majority of his party) was a somewhat weak 70 per cent. For a comparison, consider that Senators Fannin (R.-Ariz.), Allott (R.-Colo.), Gurney (R.-Fla.), Cotton (R.-N.H.), and Curtis (R.-Neb. were all top scorers in the party unity ratings with 90 per cent. All of those senators are considered trustworthy conservaties. Thus, Williams can be hailed neither for his unwavering support for President Nixon's policies, for support of the Conservative Coalition, nor for support of party unity rollcalls.

Where he does distinguish himself is with an exceptionally high "voting participation" score of 97 per cent, while the average Republican senator's voting participation score was 87 per cent.

What were some of the issues on which the independent Delaware Republican snubbed his nose at both his President and his party?

He voted against the Senate amendment which eliminated the House-passed $20,000 crop subsidy for individual farmers.

Then there was the vote to extend the income tax surtax at 10 per cent through December 31, which was adoped by 51 to 48 and supported by President Nixon. Williams voted "nay."

On the nomination of Judge Clement Haynsworth to the Supreme Court, Williams opposed the President and the GOP by voting "nay."

On an amendment to restore 27.5 per cent oil depletion, a position supported by the President and by the Conservative Coalition, Williams voted "nay."

On adoption of the 1969 Cooper-Church amendment to bar use of Defense appropriations for introducing U.S. ground troops in Laos and Thailand, Williams voted "yea."

On adoption of the conference report of the Tax Reform Act of 1969, Williams voted "nay" in opposition to the bipartisan majority.

On a Mansfield motion to recede from Senate insistence on the Philadelphia Plan amendment to the fiscal 1970 supplemental appropriations, Williams voted "nay" in opposition to the President and the GOP.

Of course his most recent and widely publicized active opposition to President Nixon's controversial welfare "reform" measure is another indication both of his conservation and his independence.

In Williams' view, no candidate can ethically campaign on a platform of fiscal responsibility unless he is willing to live up to what he preaches. In terms of the staggering federal budget deficit for this year, Williams says it does no good for either Congress or the Administration to point fingers at one another, for both are equally guilty.

It is here that Williams has strong words of warning for his own party. "Unless we as a party, from the President to Capitol Hill, live up to our promises to balance the budget, then we have no business accusing the Democrats of irresponsibility," he says.

"Candidates who, during campaigns, use the issues of spending, taxes, or corruption in high office, must have good records on those issues themselves," he says firmly.

So one cannot judge Sen. Williams on "independence" alone. It is in that very independence of thought that he is most consistently found to be supporting the principles of sound government and fiscal integrity that *should* guide every one of his Senate collegaues.

Writing in the *Reporter* in 1965, Laurence Stern observed that Sen. John J. Williams' one concession to vanity was an exhibit of autographed newspaper cartoons, framed and hanging on the walls of his Capitol Hill office. They all characterize the Delaware senator's career, to quote Stern, as "the triumph of the foxy country boy over a rogues' gallery of tax cheats, corrupt officials, junketing congressmen and assorted malefactors."

And indeed his office walls are still covered with the cartoons, many of which date back to his early years in the Senate and refer to scandals no longer even remembered by the public. Also hanging in the office are the numerous awards, plaques and citations given the senator over the past 24 years.

"The foxy country boy" attitude referred to by Stern became evident before Williams had been in the Senate even for one year. He had been receiving complaints that the Internal Revenue Service was billing some of his constituents for taxes already paid. When Williams demanded to see the files of the Wilmington tax collector's office, he found that even his name was carried on the rolls as a delinquent taxpayer.

That was enough for the "country boy." By the time he was through, the IRS employe responsible had admitted that he had embezzled more than $30,000 and finally wound up in prison.

One good investigation leads to another, so on a tip, he began looking into a possible tax-fixing operation in New York, with satellites in St. Louis, Boston and Philadelphia. The single-minded persistence of Delaware's country boy uncovered a scandal that reached all the way to the White House. In time, grand jury indictments and convictions were made. Caught in the Williams exposé were Truman White House assistant Matthew Connelly, and Assistant Atty. Gen. T. Lamar Caudle. The GOP capitalized on Williams' sleuthing by campaigning in 1952 with the theme "the mess in Washington."

But Williams is no respecter of party when it comes to official dishonesty. "I dont believe that either party has a monopoly on good men—or scandals," he once said.

Sen. Williams proved his bipartisan dedication to truth by becoming the first Republican in the Senate to call for the resignation of Sherman Adams from the Eisenhower White House staff, during the scandals of that Administration.

Once established at the defender of public decency, it wasn't long before Williams became the target for anyone with a "tip" about alleged misdeeds in high places. But Williams managed to keep his perspective about all the "dirt" that is given him unsolicited.

"I investigate them just like any newspaper reporter covers a story," he once said "I get my facts straight, then I report them to the Senate."

Concern for the reputation of the accused is the motivation of Williams' caution. He told Washington Star reporter Paul Hope in 1966:

"You've got to be extremely careful. With the power of the Senate you can destroy a man, so you've got to be right. I have cases here that are maybe going to explode some day, but until I can document them they are going to stay right in that file. I'd rather let a dozen go than start a new one before it's ready."

Undoubtedly the best-known case of Williams' investigatory success was the Bobby Baker story, even though as of today Baker still manages to stay out of jail.

While the Senate Rules Committee used the well-worn tactic of delay to keep the ruinous facts of the overnight prosperity of Bobby Baker, protégé of Lyndon Johnson, from seeing the light of day, Williams plodded on.

"Whitewash put on over dirt won't stick. We country boys know that," he said.

When the Rules Committee attempted to cover up by closing down the investigation, Williams continued to dig. It was the mass of facts that he finally handed over to the grand jury that resulted in a nine-count indictment against Baker.

In pursuit of the facts, however, Williams took his own lumps from the Democratic Administration of Lyndon Johnson. For all Williams' trouble, the counsel of the Rules Committee called him a liar in public; the IRS audited his tax return twice in the two years during the investigation; it was charged that his mail to government agencies was being intercepted; and none other than President Johnson flew to Delaware in 1964 to try to defeat him for re-election. In spite of the Johnson landslide in Delaware, as elsewhere, Williams was re-elected by a 6,932-vote margin.

The most insulting blow of all was the clumsy attempt to besmudge Williams' character. At a news conference in Nashville, Carole Tyler, Bobby Baker's former confidential secretary, dropped a 10-megaton bomb:

"I wonder what you would think if you knew that the principal investigator of the Senate investigation [of the Bobby Baker case] was seen by me on July 6 at 6:30 a.m.

with a lady—not his wife—just after they finished breakfast?"

Pressed to name the senator, Miss Tyler, who later died in a freak airplane accident near Baker's Carousel Motel in Ocean City, Md., said: "I think you know who I mean."

John Williams, then 61 and married for 38 years, was both outraged and incredulous.

But rather than make a public denial of the charge, which he explained in private that he could not do, he wrote a one-sentence statement:

"Any newspaper, any wire service, any network that carries any report questioning my character assumes full responsibility for its truthfulness and had better be prepared to prove it."

Friends who wondered why the senator didn't openly deny the Tyler charge got a private answer:

The senator had been in a roadside diner with a pretty girl that morning. The girl was his granddaughter and he was driving her back home after the 4th of July weekend. (The Williams' maintain a beach home near Rehoboth Beach, Del.). But he refused to "drag my grandchild into this."

In another case, Sen. Williams' nose for skulduggery took him into the mortgage records of the Federal Housing Administration. For more than two years the General Accounting Office, the independent agency which reports to Congress on the fiscal soundness of government programs and departments, had been publishing in its GAO reports stories of the most incredible bungling, if not downright deception, in the awarding of FHA financing to dubious projects. Were it not for some concerned civil servants at FHA and for the crusading Delaware senator, Congress might have gone on blithely ignoring the facts.

Williams exposed some of the worst abuses. Homes for the elderly built with FHA-insured funds were never occupied and many were abandoned by the owners who left the government holding the bag. Apartment buildings that had been "doomed from the start," according to local reports, were given FHA approval because of political pressures. Individuals whose housing projects had failed consistently were still given FHA financing because of political connections.

One of the most startling of the scandals involved Webb & Knapp, Inc., a major contractor on urban renewal projects in New York City, Pittsburgh and Philadelphia. The company owed $27 million in federal taxes but was still approved for FHA mortgages totalling $67 million for seven urban renewal projects. The company filed for bankruptcy eventually, and the government admitted that it could expect to collect only about $1 million of the $27 million Webb & Knapp owed it.

The cases were made to order for Williams. He said: "In case after case the FHA has shown little concern for the housing needs of our people. It has seemed interested, instead, in pandering to politicians or slipping money into the pockets of questionable speculators."

While the Bobby Baker case and the FHA case occurred under Democratic administrations, Republicans have not been immune from Williams' searchlight.

In the matter of Judge Clement Haynsworth, rejected by the Senate when President Nixon nominated him for the Supreme Court last year. Williams explained his vote:

"For years I have been critical of federal judges neglecting their judicial duties and directing their energies toward outside activities for the purpose of financial gain, and to confirm Judge Haynsworth . . . in the light of his record would, in my opinion, be placing a stamp of approval on such outside financial operations."

While he admitted regret at having to make such a decision, his action was certainly in keeping with his straight-arrow view of public ethics.

It wasn't the first time he cast a vote against what politically would have been the more tenable position.

In 1959 he found himself holding the crucial vote in a Senate Finance Committee consideration of a special bill that would have benefited the taxable status of some General Motors stock owned by the duPont family. The duPonts, after lengthy litigation, were being forced to divest themselves of the $3.5-billion worth of stock, but wanted, understandably, to avoid paying regular tax rates on the income. Sen. J. Allen Frear, the Democratic senator from Delaware, home base of the duPont family, obligingly introduced special legislation to allow them to be taxed at a much lower rate.

Despite the fact that Sen. Williams, as the Republican senator from the duPont territory, was no doubt on good terms with the duPonts, he cast the vote that sent the bill to legislative limbo. The fiscal behavior which Williams expects from both government and citizen would not allow him to support legislation, even for his most powerful constituents, that violated that principle. He finally went on to help draft an amendment to the tax laws that did help the duPonts slightly in the matter of the forced disposition of the General Motors stock.

Sen. Williams keeps an especially alert eye on possible corruption in the distribution of government farm crop subsidies. Practicing what he preaches, he refuses government subsidies for his own farms in Delaware, and keeps a keen watch on those who do accept them. In 1965 he told the Senate that the Department of Agriculture was trying to cover up a major scandal involving large-scale overplanting in the acreage allotment of rice and cotton in the Arkansas area.

He has steadily supported the limitation to $20,000 of the amount of government subsidies that can be accepted by a single farmer. But Congress failed to adopt the lower subsidy limit, setting it instead at $50,000.

The efforts of the Delaware watchdog in trying to prevent waste can be prodigious. In 1967 he found two provisions in a House-passed salary increase bill that had the effect of making two Johnson appointees, both former Democratic congressmen, eligible for higher retirement benefits. Pointing out that the present law already gave the gentlemen involved liberal benefits, he provided Congress with carefully researched figures on just how much more of the taxpayers' money would go to making them comfortable in their declining years.

Williams argued on the basis of fairness alone that the two amendments should be deleted from the Act. But on a straight party-line vote, his motion was defeated.

"Who does the 'Great Society' think it is kidding?" he asked. "Who said that this 'Great Society' is not fighting its war against poverty—at least as far as its own hierarchy is concerned?"

The recent pay increases for the President, Cabinet officials and members of Congress were a real sore point with Williams. He gives several reasons for opposing the increases, most of which had to do with his predictions of a $15 to $20-billion budget deficit for fiscal 1970.

"This is no time to add to the burden of the taxpayer," he said. "Furthermore, I would hate to see the day when the Senate becomes an exclusive rich man's club. If a man can't live on $30,000 a year, then there's something wrong. These senators don't need to live in $100,000 homes."

Williams himself has always resided at the old Mayflower Hotel on Connecticut Avenue, commuting on weekends to his home in Millsboro, Del.

Williams' scrupulous reading of GAO reports uncovers some federal spending that might never be known publicly otherwise. In July 1968 he uncovered a Johnson scheme to have federal employes write a history of the agency for which they worked in the Johnson Administration, for placement in the LBJ library in Austin, Tex.

Williams called the order, which came from Special Assistant to the President Joseph Califano, "an unnecessary and irresponsible waste" of taxpayers' money. History should be left to the historians and not "distorted by a lot of high-powered propaganda initiated at taxpayers' expense," he said.

Last year Sen. Williams prodded Congress into asking more questions about the practice of modern American Presidents who take with them into retirement their own "papers"; i.e., government records compiled during their terms in office.

In the case of former President Johnson, the 31 million pages of private government files he took with him are appraised at almost $40 million. When they are donated to the LBJ library at the University of Texas, Johnson can take a tidy tax deduction on them. Furthermore, they would not even be released for other historians until Johnson himself used them as a basis for books and television interviews which will net him substantial royalties.

Williams introduced a bill to close the possibilities of this windfall to future ex-Presidents by making the value placed upon such property taxable as income, thereby offsetting the tax advantage.

"These people are making a profit out of property which properly belongs to the government. These papers are developed by government officials on government time, typed by government secretaries on government paper stored in government files."

A harsh critic of the Johnson Administration's much-ballyhooed Campaign Financing Act of 1967 (which finally died unmourned), Williams has his own ideas about the problem of campaign financing and the myriad ways in which reporting procedures are being circumvented.

His proposals (for which he was praised by even the liberal Ripon Society) include provisions for (1) a special income tax deduction for contributions of up to $100 to political candidates or parties; (2) reporting of contributions and expenditures by *all* political committees; (3) broadening of the Federal Corrupt Practices Act to cover primary elections; and (4) prohibition of solicitation of campaign funds from federal employes by political committees.

In a recent triumphant scene on the Senate floor, Williams won a victory for another government reform he has promoted for years. He offered an amendment to the Military Authorization Bill which would end the Defense Department's long-standing practice of giving advance information about the award of a government contract to the congressman serving that district.

Although it was considered a harmless enough practice, Williams felt it perhaps gives an incumbent unfair advantage over his opponents, and also, more importantly, could give the public the impression that office holders were influencing the awarding of defense contracts. The Senate, pinned down by Williams' insistence on a rollcall vote, adopted his amendment 78 to 0. Sen Hugh Scott, the Republican leader of the Senate, originally defended the practice on the grounds that it is one of the lawmakers' duties as "ambassador of the state," but finally voted with the majority when it became clear that his would be the only "nay" vote. It was later passed by the House.

Williams is both persistent and consistent when it comes to opposing budget deficits and unnecessary federal spending. As mentioned before, the pay raises for members of Congress, top Administration executives and federal judges, were a prime target for Williams' blue pencil.

Sen. Williams in the Senate and Rep. Gross in the House led the fight against the pay raises. Both introduced legislation to repeal the Salary Act of 1967, under which raises go into effect automatically on the recommendation of a presidential commission, unless the House or Senate objects within 30 days. In pressing for a repeal of that act, Williams predicted, in February 1969, that there would be massive deficits in both the 1969 and 1970 federal budgets. He warned Congress that the pay increase alone would add another $4 to $5 billion a year to the budget, while Congress was faced with the necessity of raising the national debt limit yet another time.

In August 1970, Williams took the floor to recall his prediction of a massive deficit, and attempted to stop more spending by offering an amendment that would have put a $205.6-billion ceiling on spending for fiscal 1971. That was the projected figure released by the budget bureau in May 1970. But without blinking, the spend-and-elect Senate voted down the Williams amendment 59 to 25.

It gave the ardent anti-deficit senator from Delaware a chance to say "I told you so" to his colleagues.

"I have felt for a long time that one of the greatest mistakes we have made in this Congress was made a year and a half ago when we raised congressional salaries by 40 to 41 per cent, and that of the top executives in government from 40 to 80 per cent," he said.

When President Nixon announced his revolutionary new "Family Assistance Program" to the nation in a televised speech in August 1969, Sen. Williams joined the majority of his Republican colleagues in indicating his conditional support of the bill. Like many others, Williams supported the "workfare" provisions of the legislation, but adopted a wait-and-see attitude on the substance of the legislation.

But in April 1970, when the Senate Finance Committee studied the House-passed version of the legislation to establish Nixon's Family Assistance Plan, Williams, as well as several other influential members of the committee, began to have serious doubts. After listening to testimony by the then Secretary of HEW, Robert Finch, Williams openly questioned the Administration's estimate of $4 billion for the first-year cost of the welfare program.

He enlightened Secretary Finch on the errors in the government's case, pointing to the fact that estimates were based on a national unemployment rate of 3.5 per cent, while the current figure was almost 4.5 per cent. That, Williams pointed out, would mean the cost of the program would be increased by $1.25 billion.

Williams also displayed charts prepared at his request by HEW staffers, which compared the amounts of total income that a welfare family could receive—combining benefits from the federal and state government, including such indirect assistance as public housing.

Williams' figures showed, incontrovertibly, that under the Nixon plan it was possible for a mother with three children and no earnings living in New York City, to get more from the welfare program than if she was earning enough money to make her family ineligible for food stamps and Medicaid. This was enough, despite protests from Secretary Finch, for the committee to insist that FAP be sent back to HEW for overhauling.

Yet even with the legislation patched up with haphazard Bandaids, it has still not met with the approval of the budget-conscious Williams. Even with its revisions, Williams predicts that the bill will not pass the Senate during the upcoming lame-duck session. He has also promised to engage in some length "educational" discussion of the issue on the Senate floor, a move that might well bring about a full-scale filibuster.

His objections to the legislation of course encompass more than the strain it would place on the already burdened federal budget. While not against certain kinds of government aid to truly needy persons, the senator believes that problems of unemployment and non-support of families goes deeper. He cites, in an interview, the poor regard in which manual labor is held today. He would prefer that more be done to restore the dignity of work itself, and to explode the myth that every working man must be a chief rather than an Indian.

Besides that, of course, the senator argues that in time of great inflation and an exploding budget, what the country needs least is new federal programs or an expansion of old ones.

If the President had asked for Williams' advice, he would have told him that the welfare plan, besides being basically unsound fiscally, would be politically disastrous for the President's re-election chances. Williams believes Nixon's political fortunes would be enhanced by the bill's defeat.

He declined to comment on the number of Democrats and ultra-liberals within the Nixon Administration who have been the brain-power behind such schemes as the welfare plan. He did note, however, that he knew many of his Republican colleagues had been dissatisfied. His advice to his own party was that unless it builds a better record on the issues of spending, budget balancing, and reducing government programs, it cannot very well point an accusing finger at the Democrats.

Sen. Williams is at his best when fighting both excessive spending and scandal in the same government program.

He told the Senate during the discussion of certain Medicare program scandals that parts of the program, indeed its major components, would run up costs in the next 25 years that would surpass the present national debt of $370 billion.

"In every single year since Medicaid started we have had to approve a supplemental appropriation for it," he said. "In 1969 the program will require some $278 million in additional funds, and next year the total cost of the program is expected to exceed $6 billion."

He uncovered numerous examples of waste and extravagance in Medicaid during his sleuthing. He even found some downright dishonesty.

One example was the profitable operation by chain organizations of extensive care hospitals and nursing homes. When a patient was through at the hospital, the administrator sent him to one of its nursing homes, picking up a nice federal fee.

Williams noted that lax rules and administration of the program by federal bureaucrats led to the explosion of health costs from $1.3 billion in 1965 to an estimated $5.5 billion in fiscal 1969. He charged that the fees set under federal Medicare average as much as two to four times the maximums allowed by Blue Cross and Blue Shield insurance programs.

The Wilmington (Del.) *News* disclosed on July 15, 1970, that Williams had uncovered more abuses in the Medicare program this year. Questioning Social Security Commissioner Robert M. Ball at a Senate Finance Committee hearing, Williams pried loose the information (which of course he already knew) that HEW had sent a bogus doctor to investigate reports of overcharges and other abuses of Medicare throughout the country. While the "doctor" was in the field visiting hospitals and nursing homes, presumably to clear up the "misunderstandings," he allegedly set up a dummy consulting firm with a former Nebraska welfare director that billed the government for fictional services, and collected.

Under Williams' questions, Commissioner Ball finally conceded that Dr. Bradley Near, the HEW official whose activities are now under investigation by the Justice Department, was a *veterinarian*.

No accountant himself, Sen. Williams shows an amazingly sharp eye for deceptive accounting practices in the government. He was one of the first to protest the practice of adding federal trust funds to the total of normal governmental revenue, pointing out that it was hypocritical and dishonest, since those funds were not expendable.

Such back-handed accounting, Williams said, "has but one purpose: that is to deceive the American people as to the serious state of our financial situation."

In 1968 he delivered a scathing attack on the Johnson Administration for the phony accounting method, but reminded his colleagues that they could not excuse themselves from the responsibility to take action to control spending and taxes.

"I have said many times that we cannot point a finger at the President and then excuse our own responsibility by inaction," he charged.

In 1969, Sen. Williams' position had not changed, even though a Republican President was now formulating the federal budget. In August of last year, he reported that the budget surplus claimed by the Nixon Administration was accounted for by the amount of money accumulated in special trust funds like Social Security and Medicare, which he again patiently explained cannot be used to defray normal operating costs of the government. Williams joined Sen. Carl Curtis in sponsoring legislation that would have forced a return to an administrative budget, to show clearly whether the general treasury was operating in balance. Williams called it his "truth in budgeting" proposal.

Williams constantly emphasizes the serious moral responsibility of Congress to keep spending at realistic levels. In debate in November 1969 he told the Senate:

"Congress has no moral right to instruct the President that we expect him to hold expenditures for fiscal year 1970 at $192.9 billion (which was the amount of a Senate-passed ceiling on spending for 1970) and then authorize new projects and programs which will require billions of additional expenditures.

"I will not be a part of such hypocrisy," Williams fairly shouted, straining his normally soft, low-volume voice.

Williams once called the Senate's attention to the fact that a Public Works bill being debated included 62 new projects, not one of which had anything to do with air and water pollution, the subject of the appropriation. The projects, he noted, had a total cost of more than $1.25 million.

"The record should be clear that when senators go home and expound their great interest in water and air pollution and motherhood, they can also let it be known that they do not have quite as much interest in the American taxpayer," he stormed.

Yet, on Williams' motion to recommit the giant boondoggle, only four others voted with him.

Sen. Williams is anything but delicate when it comes to laying the blame for inflation at the door of a liberal Senate. In December 1969, when despite his own best efforts, the Senate refused to delete $5 billion in cuts and $7 billion in Social Security benefits from a bill extending the federal income surtax, Williams was livid:

"It is the most irresponsible legislation passed in my 22 years in the Senate," he said.

He was so angry that he refused to lead Republican senators on the Conference Committee to iron out differences between the Senate and the House versions of the bill. He was still so angry by the time final passage rolled around that he voted against it in entirety.

Few examples of federal waste escape the Williams eagle eye.

On May 14, 1969, he voted against authorizing $480 million for a U.S. contribution

to the International Development Association (IDA), arguing that the World Bank was not contributing its own fair share. Furthermore, Williams said, IDA funds would be used to finance the kinds of projects in other countries that many American communities could not afford.

He also opposed legislation to buy property to extend the Senate Office Building, explaining that the best way to approach the space problem was to cut back on some of the overstaffed subcommittees. He has frequently spoken out against the proliferation of committee staffs, which he charges result in the senators almost being run by their staffs.

In debate on appropriations for the Padre Island National Seashore in Texas, in June 1969, Sen Williams charged that the project had more than tripled in cost since it had been authorized seven years before.

"Congress was promised that all the land would not cost more than $5 million. We have already spent over $12 million and now we are asked to spend another $4,129,829. How can Congress with a straight face criticize the Defense Department for its overruns?"

Sen. Williams, as Sen. Clifford Hansen of Wyoming has well said, made such significant contributions to his country through his never-ending search for waste and graft, that it would be difficult, if not impossible, to put a dollar sign on the value of his services.

Moreover, Williams has been one of the least expensive of all the U.S. senators for the public to maintain. Ever since his arriving in Washington, he has regularly returned the unused portion of his Senate stationery allowance for redeposit in the Treasury. (It took him a while to convince reluctant bureaucrats that it was indeed legal and possible to do this.) He did this, he says, without stinting on the amount of supplies he needed to take care of his official duties.

When he cast his vote on a public issue in the Senate, it was always done with the utmost in sincerity, at times displeasing even the conservatives who call him their own. In the '50s, for example, he reluctantly voted for censure of the late Sen. Joseph McCarthy, whose behavior he feared damaged the dignity and sanctity of the Senate. He also voted for cloture in 1964 to break the deadlock on the hotly debated Civil Rights Act of 1965, a nemesis of many Senate conservatives. But he did so with complete conviction and honesty—not for political gain.

He has not often been confused with the other Sen. Williams—Sen. Harrison Williams of New Jersey, the liberal Democrat. But such a mistaken identity could have embarrassed the Democrats.

In 1966, when liberal Democratic Gov. Pat Brown was trying to hold off the assault of Ronald Reagan in the race for governor of California, his campaign manager telephoned Washington to ask "Sen. Williams" to make some campaign speeches for Brown. The caller suggested that the senator might want to bring a subcommittee to California so that the trip could be financed by the federal government.

When John Williams realized the mixup, he had his secretary reply without a hint of sarcasm that he would be happy to come to California to speak on "good government," and that he would even pay his own expenses. After Brown's campaign manager heard this reply, there was dead silence at his end of the line. Sen. Williams say he prefers to think they didn't get him confused with Williams of New Jersey; it was just that they found out he didn't have a subcommittee.

With a 24-year career in the U.S. Senate that has earned him the respect of colleagues of both parties and the admiration of reporters of all ideological shades and with no financial worries, Williams could retire and spend the rest of his life in self-indulgent relaxation. But that is not likely.

Williams insists he will engage in some activity to promote the principles he has tried to practice as a senator. Since he is not known as one of the country's better orators, he foresees no great demand for his services as a speaker. But his third career will definitely be consistent with the course he set for himself over the past 24 years.

No matter what he does, it is certain that the example of Sen. Williams will always be used by those who favor decency in public service. The senator recently expressed his concern about the poor example some members of the older generation had already given to American youth.

"When men holding high positions of trust betray that trust, we are creating in the minds of young people an element of doubt about the moral standards we are following ourselves, and are asking them to follow."

Perhaps insistence on the highest standards of public morality, whether in pursuing a Bobby Baker to justice, or in fighting to keep public spending within realistic limits, is the essential message Sen. Williams has for his country.

Mr. BOGGS. I thank the Senator. I am happy to yield now to the distinguished Senator from Connecticut.

Mr. RIBICOFF. Mr. President, JOHN WILLIAMS is a good man. JOHN WILLIAMS is a man of great character. And I do not suppose that that character has ever been better shown than in his determination to leave this great body which he has served so well.

It takes great courage to know that you have done your task, and though assured of reelection the day has come for other men to serve in this body.

I suppose that those who believe in labels would characterize the Senator from Delaware as being a conservative and myself a liberal. Yet if you look at our voting records within the Finance Committee, no two members have voted as consistently with one another in that committee as have the Senator from Delaware and I. We have often found ourselves together in a very small minority.

I have seldom known a man who knew his subjects better than JOHN WILLIAMS. Whether you were a secretary, a member of the staff, or a fellow Senator, you had to doff your hat to the Senator from Delaware.

You can always talk to JOHN WILLIAMS; and whether you are in disagreement or in agreement with him, you can invariably work out whatever differences exist. Nothing illustrates this better than the controversial social security bill now under consideration. Starting from opposite ends of this measure, after a few days of conversation we agreed on a procedure; and, though we are in exactly opposite positions on the measure, we did believe we had worked out an arrangement to give the Senate eventually an opportunity to vote on family assistance. As the Senator from Delaware remarked to me:

Abe, I am going to do everything I can to defeat this bill; I think it is a bad bill, but I do not want to stop the Senate from having an opportunity to vote on it.

During the course of our conversations, the Senator from Delaware also said to me:

You know, Abe, if they had let us alone, you and I together could have worked out a good Family Assistance Program.

JOHN WILLIAMS is a courageous and an able Senator. He will be missed in this body. I join my colleagues in wishing him constructive and fruitful years as he goes back to his home, leaving behind one of the great records achieved in the U.S. Senate. I am proud to call JOHN WILLIAMS "friend."

Mr. BOGGS. I thank the Senator. I am happy to yield now to the distinguished Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. Mr. President, it is a pleasure for me to associate myself with the remarks of my colleagues on both sides of the asile regarding the remarkable record and career in public service of our distinguished friend, JOHN WILLIAMS.

He has served now for almost a quarter of a century in the U.S. Senate. It has been my privilege to have served with him on the Committee on Finance for almost 12 years. Prior to that time I served with him as a member of the Committee on Agriculture and Forestry. No man in the Senate has been more diligent in attending committee meetings, whether they be executive sessions or public hearings, than JOHN WILLIAMS. No Senator has been more diligent and faithful in his attendance on the floor of the Senate than JOHN WILLIAMS.

No man has worked harder to understand the complicated issues pending before our committee than has JOHN WILLIAMS. In the Finance Committee, particularly, we deal with many complicated and complex problems. Sometimes, in the field of taxation, even the most outstanding tax lawyers in the country may disagree about the meaning and significance of a particular proposition. JOHN WILLIAMS does his homework. When he comes to the committee sessions, he knows what the issue is. He is fully cognizant of what the facts are. He makes up his mind on what those issues are.

Whether he is on your side as an ally or whether he is on the other side as a foe, he prosecutes his views with vigor, with diligence, with integrity, and with great knowledge.

He is also one of the Senate's outstanding parliamentarians. He knows the rules of the Senate and how they apply. That, in turn, makes him a much more effective Senator.

I deeply regret that our distinguished colleague, at the very height of his mental vigor and promise, has seen fit to retire from the U.S. Senate. I would hope that at some future date he might reconsider that decision. The President is making some changes from time to time in his Cabinet. If he sees fit to make further changes, I hope that he will seriously consider JOHN WILLIAMS to fill any Cabinet post that may become vacant. If JOHN WILLIAMS accepted such a position, the country would be in good hands, and that position would be filled with integrity and diligence.

I wish JOHN WILLIAMS and his charming wife, Elsie, continued good health, vigor, and prosperity in their retirement. We hope he will come to see us from time

to time and still give us the benefit of his advice and counsel.

Mr. BOGGS. I thank the Senator.

I am happy to yield to the distinguished senior Senator from Iowa (Mr. MILLER).

Mr. MILLER. Mr. President, in a few days, the Senate will lose one of its truly great Members as the 24 years of distinguished service of Senator JOHN WILLIAMS of Delaware comes to an end.

Long before I came to the Senate 10 years ago, I had cultivated a deep admiration for the courage and forthrightness of this man, whom I first read about as a leader in bringing to light what became known as the Truman era tax scandals. As a tax lawyer, I was particularly interested in such developments, because it has been well said that taxation is the life blood of our Government, and when a substantial segment of the public develops the idea that there is favoritism in the administration of our tax laws, that life blood can be drained away. Perhaps worse yet, the moral fiber of the people can be destroyed.

Needless to say, following my first election to the Senate, I looked forward to working with this great Senator. My expectations have been more than fulfilled. He has been warm and gracious to me from my very first day in the Senate, and since we share so deeply the same philosophy of integrity in Government and of honesty in handling the taxpayers' money, it has been my privilege to work closely and harmoniously with him on a great many occasions. His reputation as "the conscience of the Senate" has been well placed. But it has taken courage to acquire and maintain that reputation, particularly in the face of the all-too-frequently practiced approach of expediency which has characterized a great amount of the work of the Congress.

We are proud that Senator WILLIAMS has sat on the Republican side of the aisle, but, at the same time, the respect which extends to him from both sides of the aisle reflects the knowledge that, when it comes to integrity in government, party labels have no relevance as far as JOHN WILLIAMS of Delaware is concerned. What comes first is the people—all the people—of our country.

He has given each of us a high standard to follow—one which will be difficult to attain, but one which must be attained if the confidence of the people in the Congress is to be maintained. I know he leaves his post of duty with very mixed emotions—just as we bid him farewell with deeply mixed emotions. For we know that he has well earned his retirement, but, at the same time, the greatness of the Senate will be diminished when he no longer sits among us.

May you and Mrs. Williams have many long and happy years of retirement in the State and among the people you love.

Mr. BOGGS. I thank the Senator.

I am happy to yield to the distinguished senior Senator from Rhode Island.

Mr. PASTORE. Mr. President, I learned a long time ago that it is not how long one talks that counts; it is what one says that matters. What I have to say will not take me too long, but I trust that the sincerity of my words will endure in the heart of JOHN WILLIAMS as long as he lives.

No other Member of the Senate has disagreed and agreed with JOHN WILLIAMS more times than has the senior Senator from Rhode Island. But I have never sat down without a feeling of admiration for the gentleman with whom I was contesting.

It has been said that JOHN WILLIAMS has been the conscience of the Senate, and indeed he has been. There have been times when he has more or less rubbed us wrong, and there have been many, many more times when he has really rubbed us well.

I supported him in many of his crusades, because I think he is a man of the people and for the people, and the people of Delaware have shown that he is a man by the people.

I am very happy to join my colleagues today in this short tribute. We regret that he is leaving; but that is his decision. We all join in saying to him and his lovely family, "Many years of good health, happiness, and success."

Mr. BOGGS. I thank the Senator.

Mr. President, I am happy to yield to the distinguished senior Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the word "integrity" is a word that is used freely and easily in public life. It is a word that we all value. But I think there are few people who deserve being characterized as the personification of integrity as does the senior Senator from Delaware.

He has taken on jobs that I am sure no other Senator would want to take on, jobs that we all know in a way, are unwise to take on. It was the senior Senator from Delaware who argued with us against increasing our own salaries, and this was a crusade which all Senators must have viewed with at least mixed reactions. He has opposed paying our staffs more. He has taken a position on an issue in another area—oil—and in doing so he has taken on the strongest political and economic power in American life. He has insisted on fair and equitable treatment for the oil industry, which takes courage.

He represents a State in which there is a great concentration of power in one family. Yet, he had the remarkable integrity to insist that when the tax bill came out, they treat that family, with all its power and with all its influence, with complete equity, although I think it must have been painful to some of his most powerful constituents.

He has just assumed another task, a kind of Parthian shot for Senator WILLIAMS, and he has told us that we should consider mandatory retirement from the Senate at age 65. This is another delicate and difficult job, and I wish he would carry on so that he could lead us in that fight. Of course, he cannot do that and abide by his principles because of the unfortunate accident of age.

I think he has done the best job of any Senator in an area in which the Senate should be peculiarly effective, and that is in monitoring the waste, extravagance, incompetence, and corruption in some cases in Government agencies.

If there could be such a thing as a Williams Democrat, I would like to be that kind of Democrat. But, of course, there could not be, because JOHN WILLIAMS is an honorable and vigorous partisan. That does not mean he is unfair to our party, the Democratic Party, but he is a proud Republican; he is a Republican all the way. He has fought hard for his party's interest, and always fairly. I certainly view his departure with great and deep regret.

Mr. BOGGS. I thank the Senator from Wisconsin.

Mr. President, I ask unanimous consent that the 1-hour time allotted to me may be extended 15 minutes.

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

Mr. BOGGS. Mr. President, I ask unanimous consent that the RECORD may be left open for Senators to file further remarks, and that the RECORD may be left open until the last issue of the RECORD for this session of Congress, so that Senators may place in the RECORD any comments they may have on my distinguished colleague, Mr. WILLIAMS.

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

Mr. BOGGS. Mr. President, I ask unanimous consent that all remarks and comments made about my distinguished colleague (Mr. WILLIAMS) today be placed together and printed as a Senate document.

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

Mr. BYRD of West Virginia. Mr. President, will the Senator from Delaware yield?

Mr. BOGGS. I am happy to yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, I am happy to join in the tributes that have been paid to the very able and very distinguished senior Senator from Delaware (Mr. WILLIAMS).

These tributes are highly deserved because the Senate is on the threshold of losing one of its truly great men.

I regret that JOHN WILLIAMS has chosen to retire from the Senate, but I admire JOHN WILLIAMS for the decision that he has made.

We can look about us in this great body and see men and women who may be remembered for this or that quality, but I believe that JOHN WILLIAMS is a man and a Senator who combines within himself many of the great things for which we single out and admire various Senators.

JOHN WILLIAMS has the courage and the ability to get to the heart of matters of a JOHN PASTORE.

He exercises the diligence of a WILLIAM PROXMIRE.

He, at times, can show the firm determination of a STROM THURMOND.

He has mastered the rules of the Senate and has a great knowledge of its precedents and, in that respect, I think of him as the DICK RUSSELL on the Republican side of the aisle.

He has the dedication to principle of a JOHN STENNIS. He possesses the equa-

nimity of a MIKE MANSFIELD. In fine, JOHN WILLIAMS is a man of many talents. I have always respected this man because I have felt that the title "Mr. Integrity" was a just and appropriate and fitting one.

Mr. President, I shall miss JOHN WILLIAMS as I know many of my colleagues will miss him.

He will leave his influence upon this body even as he will have left his indelible imprint upon the laws of our country. Each of us, as Tennyson said, is "a part of all that we have met," and therefore, to that extent, will be a better man and a better Senator as a result of our having served with Senator JOHN WILLIAMS of the State of Delaware.

The roses red upon my neighbor's vine
Are owned by him, but they are also mine.
His was the cost, and his the labor, too,
But mine as well as his the joy, their loveliness to view.

They bloom for me and are for me as fair
As for the man who gives them all his care.
Thus I am rich, because a good man grew
A rose-clad vine for all his neighbors' view.

I know from this that others plant for me,
And what they own, my joy may also be.
So why be selfish, when so much that's fine
Is grown for me, upon my Delaware neighbor's vine.

Mr. BOGGS. I thank the Senator from West Virginia.

Mr. SCOTT. We will miss you, JOHN WILLIAMS.

For 24 years you have served your country, and served it well. You will long be remembered for your deep interest and concern to protect the pocketbook of the taxpayer and assure that a total dollar of service was performed for each dollar contributed. This has been an outstanding trait of yours. For this we are indebted to you.

You also will be long remembered for an outstanding record of attendance and an outstanding record of casting rollcall votes.

Your State and mine have always stood together as neighbors. Delaware, as the First State, has been fortunate to have you serve her so well for so many years. And the 92d Congress will look forward to working with your successor, Senator-elect BILL ROTH.

JOHN WILLIAMS, friend, associate, leader, all of us thank you for the privilege of your friendship during your distinguished career as Delaware's Senior U.S. Senator.

Godspeed and may your health and that of your family always be on the sunny side.

A LIGHT BURNS IN THE WINDOW FOR THE SENATOR FROM DELAWARE

Mr. McINTYRE. Mr. President, I consider it a real privilege to join my colleagues today to pay tribute to the distinguished Senate service of one of the most able and dedicated men who has ever served his country in this body.

JOHN WILLIAMS of Delaware came to Washington 24 years ago little known and unheralded. He has decided to leave after nearly two and a half decades of distinguished service to his State and his Nation.

He has sometimes been called the conscience of the Senate. He has been that. He has drawn us up short many times. He has delved deeply into all that has gone on in our Federal Government. He has found much that has been wrong and our Federal Government is better because he has kept it on its toes.

I have come to respect JOHN WILLIAMS as a dedicated public servant whose attention to little things has made him an outstanding legislator.

He richly deserves the chance to leave and pursue other interests. I know he will be busy in whatever he does because that is the kind of man JOHN WILLIAMS has always been.

So I say to my colleague from Delaware, we will miss you and there will always be a light burning in the window for your visits with us.

May you have a future as great as your service here in the Senate. The best of luck to you.

Mr. TOWER. Mr. President, I have a little story to tell about JOHN WILLIAMS which I think indicates his independence of mind and his patriotism. Back in 1967 this country was faced with a steadily deteriorating confidence in the dollar abroad. I am sure my colleagues remember. There had been some talk in the Johnson administration about the need for some action which would restore foreign confidence in the dollar abroad, but there was little action.

Now as everyone in this Chamber is aware, all revenue bills are supposed to originate in the House. But time was getting short, and European money markets were becoming restless.

JOHN WILLIAMS took matters into his own hands and—as ranking minority member of the Senate Finance Committee—pushed through the surtax legislation along with certain provisions requiring a mandatory reduction in Government expenditures and in the number of Federal employees on the public payrolls by adding it to a bill extending excise taxes. As a matter of fact, when the smoke cleared and the House caught its breath, the House did finally go along with the Senate-passed tax bill. This certainly was a breach of precedent in congressional fiscal matters. No one, of course, wants to be the prime mover in raising taxes, but Senator WILLIAMS' sense of fiscal stewardship overcame the political considerations which I believe are common to us all.

JOHN WILLIAMS has made a unique contribution to American Government. He has fulfilled his committee assignments with distinction, but rather than rest on his laurels, he has singlehandedly investigated malfeasance of officeholders when reliable information was received and he has not hesitated to inform the public of wrongdoings in high places when he was sure of his facts.

Several years ago Fortune magazine did an article on the distinguished senior Senator from Delaware, entitled "The Lone-Wolf Guardian of Federal Morality." I remember reading the article. It dealt, of course, with the Senator's well-deserved reputation as watchdog of the ethics of public servants.

The American people—taxpayers and voters—owe a debt of gratitude to the man we are honoring today on the eve of his retirement from this Chamber. His reputation is well known, and I think the citizens of this nation are aware of what he has done. But we also, as Members of the Senate, are in his debt. He has done credit to his office and this, of course, has reflected favorably on our governmental system as a whole.

Mr. MURPHY. Mr. President, I am extremely pleased and honored to have been given the opportunity to join with my colleagues in a salute to one of the finest Senators, I believe, in the entire history of our Nation. I would not presume to compete with the oratory which I have enjoyed this morning but would quickly say that I have heard very little here with which I could not completely agree.

I have been very lucky to have the opportunity to serve in the U.S. Senate, particularly because it gave me the chance to get to know this great man and get to know him very well. At the outset, when I first arrived I depended upon him for counsel and leaned on him for guidance and after serving with him for 6 years I realize now more than in the beginning what an important influence he has been in this body and certainly what a great aid and inspiration he has been to me.

I do not believe there has ever been a man in the Senate who had a better understanding and working knowledge of the rules under which this body operates. And certainly he had mastered to a degree surpassed by none the art of gathering needed information from the great maze of bureaucracy which surrounds and sometimes even threatens to engulf all of us. He has great courage. I can recall when President Johnson attempted to get him to change the agreed conditions pertaining to the tax agreement 2 years ago—and the determined effort from all sides which completely failed to budge Senator JOHN WILLIAMS from what he knew to be the exact right path.

I have never known JOHN WILLIAMS to approach a question in this Chamber, from a partisan political standpoint. And it has been my experience that at all times, his consideration and his conclusion has been based on what he firmly believed to be in the public interest.

His talents, ability, courage, and clear-sighted honesty will be sadly missed here in years to come.

Aside from his great talent as a legislator my good friend JOHN WILLIAMS was a delightful philosopher and an outstanding humorist. His wit and ability as a raconteur puts him in the same class with my good friend Bob Hope.

He was a warm, dependable friend and one of the finest gentlemen it has ever been my privilege to know. I can think of no one in whose company I would rather be and I shall miss him greatly.

I have one consolation, however, that cannot be shared with all of my colleagues. I, too, will be leaving the Senate at the end of this session. And throughout my long and varied lifetime I have always tried to make it a rule, whenever possible, to be in good company. And leaving with the great JOHN WILLIAMS of Delaware puts me in the very finest company possible.

Mr. HANSEN. Mr. President, character and true worth are qualities we hold in high esteem. Down through the long

course of history, some men have stood out—proper objects of respect by their fellows. The simple but enduring virtues of honesty, hard work, dedication to principle, integrity, dependability and faithfulness to a trust are traits not found in all men. Add to these intelligence, perception, an innate ability to understand people, anticipating their actions, objectively weighing their logic, early discerning their goals and objectives, and the result is a rare person, indeed.

JOHN WILLIAMS is properly and accurately described as the conscience of the Senate. But he is unique in other ways. His is a strong, clear and respected voice in fiscal matters. No one I have known better deserved the characterization "Watchdog of the Treasury." While occasionally some seek and win fleeting public acclaim as humanitarians and public benefactors by pretending to be able to do all things for all people, with borrowed money, JOHN WILLIAMS has a way of reducing sophisticated schemes down to simple terms, making them understandable to the average man, exposing their fallacies, and clearly describing in plain English what the effect will be. He is the adamant, unyielding foe of waste and extravagance.

Those who have felt the impact of his challenge know better than to underestimate the force of his opposition. He comes prepared. Despite the fact that his is one of the smallest staffs, his research amazes colleagues and has brought more than one corrupt official down.

His presence, the probability that his probing, inquiring mind may well uncover wrongdoing that might escape the attention of others has had a salutory effect which goes far beyond the influence of most Senators. Graft and corruption never faced a more determined, persistent adversary.

He leaves the Senate at a time when many challenges confront America. But his quiet, unobtrusive example of gentlemanliness assures us all that courtesy and consideration for others is the lubricant that makes it possible for people to work together.

The high esteem in which he is held by his constituents in Delaware was evidenced by a most unusual action taken by that State's legislature.

He and his lovely, gracious wife Elsie, have won the friendship of most and the admiration of all who know them. But of greater, lasting importance to this country and its government is the encouragement and stimulation that his example gives to all citizens—especially young people—to make the most of their lives.

Let it be noted, too, that while those of us here in the Senate are well aware of Senator WILLIAMS' contribution to our country, general public understanding and comprehension of the scope and depth of his service will not be realized for many years, for his efforts to keep the Federal Government an honest tool of the people are far reaching.

Few, indeed, have earned a greater measure of the gratitude of their fellow men.

Mr. BOGGS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement which the Senator from Colorado (Mr. DOMINICK) has prepared for delivery today.

There being no objection, Senator DOMINICK's statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR DOMINICK

Mr. President, the next Congress will not be the same without the wise counsel and warm friendship that we have all received over the past 24 years from our beloved colleague, the senior Senator from Delaware. His friends and admirers are legion on both sides of the aisle.

The late Senator Robert Kerr from the great State of Oklahoma once said jokingly about JOHN WILLIAMS: "Anybody who can make a million dollars on chicken feed is a man you had better watch out for." JOHN WILLIAMS applied the same unswerving diligence and sterling integrity to the conduct of the affairs of our Nation as he so successfully did in the management of his farms in Delaware.

He was extremely proud of the fact that although he left no stone unturned in his efforts to assist the American farmer, he never accepted a cent of federal subsidy on any of his own farms.

JOHN WILLIAMS is a hunter. His skill and devotion to duck hunting are exceeded only by his dogged dedication to hunting down and exposing even the most cleverly hidden scandal in Government. JOHN WILLIAMS is known not only to the citizens of Delaware and Washington, D.C., but to people all across our land as a man who lives by the golden rule. A 33d degree Mason, he neither smokes nor drinks, and is uncompromising in his belief that a man who keeps faith with himself cannot be untrue to his fellow men.

JOHN is also noted for the delicious old fashioned ice cream which he turns by hand in the freezer on the back porch of his Washington home on warm Sunday afternoons.

We shall miss JOHN WILLIAMS in countless ways. Many of us here, and many, many more of his friends and constituents tried in vain to persuade him to change his mind about retiring. Many of us share the feeling for him that it is said his grandchildren demonstrated when he was running for his second term in this body. He enjoyed his grandchildren and they were extremely fond of him. One day in the midst of the campaign Mrs. Williams received a telephone call from a neighbor saying that two of the grandchildren were knocking on every door in the neighborhood asking everyone not to vote for their grandfather in the coming election so that he could stay home and play with them.

I join with his host of friends in wishing him good health and great happiness in the years ahead.

Mr. BOGGS. I am happy to yield now to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, it is with equal portions of sadness and respect that I rise today to salute the senior Senator from Delaware upon his retirement from this Chamber.

JOHN WILLIAMS' public record speaks for itself; he has served his country well. No words of mine can add to the high regard in which he is held by his colleagues, his constituents and his countrymen.

But the personal friendships and alliances which are so much a part of the workings of the Senate are not always so widely known. In the 4 years that I have been privileged to serve in this body, JOHN has been a cherished friend and adviser. No Member has impressed me more with his absolute honesty, unfailing humor, dedication to the public welfare, and generosity to his colleagues.

Now, as he leaves this body after 24 years of exemplary service, I am reminded of the wish of Thomas Jefferson:

If, in my retirement to the humble station of a private citizen, I am accompanied with the esteem and approbation of my fellow citizens, trophies obtained by the blood-stained steel, or the tattered flags of the tented field, will never be envied. The care of human life and happiness, and not their destruction, is the first and only legitimate object of good government.

For JOHN WILLIAMS there is no "if;" the wish has been amply fulfilled.

JOHN, you will be missed.

Mr. BOGGS. Mr. President, I thank the Senator from Massachusetts.

I am happy to yield now to the distinguished Senator from New Jersey.

Mr. CASE. Mr. President, I think this kind of observance is one of the Senate's best traditions. We do it out of full hearts. It has some resemblance to the obsequies that will eventually attend all of us.

It is unique in that category, of course, in that the subject is able to listen to the funeral sermon. I think he must do that with mixed feelings, as we all have mixed feelings in participating in this ceremony.

One might think in reading the words as they will appear in the handsome little book we always get up for people of great consequence, that JOHN WILLIAMS was a paragon and that, perhaps like most paragons, he was a pretty stuffy guy.

Terms such as the "Conscience of the Senate," "Mr. Integrity," "Honest JOHN," and all of these things usually apply to a kind of heavy man and, often, a dull person.

I like to remember JOHN not only for all of the things that have been said about him, and said so well and so truly concerning what he means to us, but I like to remember him also for the fact that I catch him once in awhile in the Mayflower coffee shop indulging in a double banana split. No one is perfect, and if he were he would be an impossible fellow to get along with.

Seriously—and I have been serious all along—maybe it is a good thing that he is going. We get to rely on people like JOHN to do the dirty things for us, sometimes things that we all ought to take responsibility for.

As his neighbor and one who has benefited from his wise advice and from his sturdy nature that he always exhibits in times of distress and sorrow, and as one who has enjoyed his warm friendship, I join my colleagues in bidding him and his lovely wife a happy journey out of here and the long life that we know they will still live.

Mr. BOGGS. Mr. President, I thank the Senator from New Jersey.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the time allotted to the junior Senator from Delaware be extended to 10:30.

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

Mr. BOGGS. I thank the Senator.

Mr. President, I yield to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, each one of us can evaluate his colleagues on the floor of the Senate in one way. But the best chance we really have to evaluate other Senators is to see them through the eyes of the voters, constituents, and citizens of their own States.

I recall very vividly the moving experience I had of being in the State of Mississippi and seeing the distinguished Sentaor from Mississippi (Mr. STENNIS) through the eyes of his constituents there. I had the same pleasure last night in the great State of New York where I saw the affection and regard for my distinguished colleague, the senior Senator from New York.

Mr. President, I had the opportunity to be in Delaware as one of the 14 States I visited during the campaign of 1970. One of the most wonderful evenings and one of the most wonderful experiences I had was to appear there with both the junior and senior Senators from that State. I would say that one word would describe the feeling toward both Senators from Delaware, and that word is "affection." The people of Delaware have a deep affection for the junior Senator from Delaware who has been their Governor, Congressman, and now Senator; but their affection for their senior Senator (Mr. WILLIAMS) began 24 years ago, and the high regard in which their senior Senator is held is unparalleled.

The second impression I would like to mention is the tremendous contribution that smaller States have made to the Government of the United States through the Senate. Here we have a State in which we have only one Congressman but two Senators, and yet this State has given us men of integrity, men of depth of vision, of breadth, and men who have represented not just the citizens of their State but men who have tried to represent a constituency across the country.

I remember very distinctly when the senior Senator from Delaware (Mr. WILLIAMS) came into the State of Illinois during the course of one of my campaigns and appeared downstate. I recall the deep impact he had there, and the way the people of my State looked forward to his appearance, their firm impression of him and the wonderful time we had together.

So the Senate as an institution, by giving equal power to 100 men, regardless of the size of their States, has, in the concept of the Founding Fathers, provided great leadership to the country which otherwise the country would have been deprived of.

Mr. President, things being as they are, there is the possibility that some day I might become a member of the Committee on Finance, and it might be as early as next year. I would then have the good fortune to follow in the footsteps of the distinguished senior Senator from Delaware. I think of the matters we have differed on occasionally and of the matters on which I have been able to work together with my distinguished colleague during my 4 years in the Senate.

First would be the elimination of wasteful and unnecessary expenditures in government. I am considered a member of the so-called moderate or progressive wing of the party, but it is abhorrent to me to see waste. I have pledged to eliminate $4 billion in the 1971 budget. That pledge is prompted and encouraged because of the work of the Senator from Delaware.

It was a great experience to participate with Senator WILLIAMS in placing limitations on Federal spending and requiring a $6 billion cut in the budget. I do not know if this had ever been done before legislatively, but I do know the incumbent administration could not have had the fiscal year it had in its first year in office without the foresight of the Senator from Delaware in placing that absolute limitation on spending on the outgoing administration. That gave the Nixon administration a running headstart in its objective to have a balanced budget. Perhaps it is the closest we will come in some years. But unless there is an effort to cut expenses they continue to grow. And without the distinguished Senator from Delaware it would not have been possible.

Third, I would be compatible with Senator WILLIAMS' feeling toward restricted practices in foreign trade. I believe, as the Senator from Delaware believes, in freedom of the marketplace and established laws of supply and demand and having world markets available to American products. I know the Senator from Delaware intends to vote against what I consider to be a bad trade bill. And so will I.

Last, I would mention a responsible fiscal and monetary policy that is necessary to our Government. He has been its most effective advocate.

It is with a great deal of humility, that I would follow in his footsteps if I should go on that great committee. It has been the instrument for the Senator from Delaware working through the processes of the Congress to bring his powerful impact, his personality, his character, his integrity, and his tremendous understanding of problems and his willingness to dig deep into every single problem he works on.

He has shown great perseverance and strength of character in resisting the temptation to become an expert in everything, knowing that no one man can cover every waterfront, and concentrating on those crucial issues he feels are important to the country, and in which he has expertise.

It is with a great sense of appreciation for our distinguished colleague, the junior Senator from Delaware that I express gratitude for the opportunity we have been given to inadequately express our deep affection and warm feeling for our distinguished colleague who is retiring from this body. We shall all deeply miss him.

Mr. BOGGS. I thank the Senator.

I am happy to yield to the distinguished Senator from Arizona (Mr. FANNIN). I have already asked unanimous consent that other Members who have not been able to be present or who have not had a chance to speak may provide their remarks for the RECORD.

Mr. FANNIN. Mr. President, I express my thanks to the distinguished Senator from Delaware.

I am proud to join my colleagues in paying tribute to one of the most respected men in this Chamber, the senior Senator from Delaware. Not only is he respected in this Chamber but he is respected throughout the country.

On a visit to Rehoboth Beach in Delaware I found he has the great respect of his neighbors. On that visit I talked to one of the local merchants and he used the same expression used by so many people regarding this great man. He said, "Oh, yes. Honest JOHN WILLIAMS." He spoke of him with high praise.

Yes, Mr. President, I find the Senator from Delaware is respected throughout the country. This reputation has not been gained easily.

I have had the privilege to serve with JOHN WILLIAMS on the Committee on Finance and I have learned much from his remarks to me and his guidance and counseling. I will certainly miss him. Not only has he been outspoken, courageous, and a dedicated watchdog of Federal spending, but he has had many victories in saving taxpayer dollars throughout his career. He has demanded economy in other sectors of Government, and economy in the operations of the Senate itself.

He has always been unselfish in the handling of his affairs. Not only has he demanded the respect of others; he has shown that same respect for others.

He has followed the dictates of his conscience, as has been expressed here by many of his colleagues. He has shown no fear of taking a forthright position even when it was destined to put him in an unpopular position.

He is a renowned parliamentarian, as was brought out here, but that was as a result of experience and diligent study. He does his homework.

Earlier this week here in this Chamber we witnessed one of his many acts of statesmanship when he put forth a proposal to settle the vital business of the Senate before the end of the year. His proposal was generous and just.

Again, I repeat, he does his homework and he does it well, as is proven by his ability to succeed in his goals.

I remember the distinguished majority leader remarking to me on one of the occasions of Senator WILLIAMS' utilizing a special procedure—"He always does his homework."

I have great admiration for this Senator, who has had such an illustrious record of public service. I wish him the best in the future, and I know his services to the people will continue for many years.

We certainly will miss him in the Senate, where he has served so diligently for the past 24 years.

I join all my colleagues in saying, "Thank you, JOHN."

Mr. JAVITS. Mr. President, Senator JOHN WILLIAMS, of Delaware, will be sorely missed by all of us who have had the privilege of serving with him here

in the Senate since he was first elected in 1946. For JOHN WILLIAMS, in addition to his skill and acument and deep sense of responsibility in all matters, has had a real passion for integrity in government. This has led him to make great efforts, even beyond the call of the duty of a Senator, of great benefit to the people. These efforts have also raised materially the level of performance and honesty in government. We can only hope that another Member will make this his chosen calling as did Senator WILLIAMS and, we have a right to hope that we may continue to benefit from the wisdom and guidance of JOHN WILLIAMS, as a private citizen. The example he has set in his career will long serve as an inspiration for other generations of Senators who will follow us.

In addition he is a very special human being who evokes love as well as respect. I bespeak for him all happiness in his new private role and many bountiful and long years.

Mr. ALLOTT. Mr. President, I wish to take this means to join with my colleagues in paying tribute to Delaware's senior Senator, JOHN WILLIAMS.

Many of those who spoke today have reviewed his outstanding record during his four terms in the Senate. I should only like to add a few thoughts:

I considered it a privilege to have served with him during my tenure here. We fought many battles together. Sometimes we were even on opposite sides. But the word of JOHN WILLIAMS was always good. Above all else, he is an honorable man.

I suspect that Senator WILLIAMS will be remembered as a symbol of truth in an era distressed by untruth. He never spoke unless he was sure of his facts. At a time when inconsistency has become to be regarded a near virtue, JOHN WILLIAMS remains totally consistent to his ideals and beliefs. He carried out his convictions to the extent of not seeking reelection to another term because he believed the time had come for a younger man to take his place, so he helped elect Congressman ROTH, another man of great integrity, to succeed him.

Senator WILLIAMS' expertise, especially on matters of finance, will be missed in the coming sessions of Congress.

Yet, these expressions of tribute are by no means given in a spirit of melancholy, because we know that JOHN WILLIAMS will devote the rest of his life to public service, helping the Republic whenever and wherever possible.

Mrs. Allott joins me in wishing John and Elsie Williams a most happy, prosperous, and fruitful retirement.

Mr. COTTON. Mr. President, the distinguished senior Senator from Delaware and I were elected to the Congress in the same year, 1946, he to the Senate and I to the House of Representatives.

With the enthusiasm and idealism which characterize all freshmen Congressmen—and which the best of our statesmen never lose—I immediately recognized in JOHN WILLIAMS those good qualities most mentioned when people generalize about my own area of the Nation and consequently I looked in a special way to his words and actions for guidance and inspiration.

He was solid—granite solid—like my own State of New Hampshire.

He was fiscally responsible and although his immediate constituency was in Delaware millions of taxpayers in his broader constituency which extended from coast to coast began to equate the name of JOHN WILLIAMS with that good old Yankee thrift in which we New Englanders take such justifiable pride.

Most importantly, though, it was obvious from the start that JOHN WILLIAMS had the type of basic integrity which marked those first settlers which landed on our northern shores and which is our most treasured heritage.

Integrity—that, perhaps, is the one word which best sums up the character of JOHN WILLIAMS, so much so, in fact, that as he leaves us he carries with him the well-deserved title of "the conscience of the Senate."

The senior Senator from Delaware would be the first to argue, I am sure, that the Senate will not lose its conscience with his departure, but as he leaves us, we want him to know that his foremost legacy to us is that through his service, he has made this conscience of the Senate stronger and more steadfast.

We shall all miss him as the great statesman he is; in addition, I shall miss him as a friend.

Mr. PEARSON. Mr. President, when our colleague, Senator JOHN J. WILLIAMS, announced a year ago he was retiring, he probably encountered the strongest opposition in his 24 years in the Senate. His decision was opposed by his fellow Republicans and Democrats in the Senate, by the leadership on both sides of the aisle, by the White House, and by his friends, admirers, and supporters in Delaware.

All to no avail. We should have known better. When JOHN WILLIAMS makes up his mind, after thoughtful and careful study, he is not likely to change it.

So we have to accept the fact that JOHN WILLIAMS will not be with us next year, when the 92d Congress convenes, much as we regret it.

We are certainly aware of his presence during these difficult days as this Congress draws to a close. There has been no letup in his heavy workload, in his quiet, tenacious attempts to persuade Congress to finish its legislative tasks.

That, of course, is one of the prime reasons why Delaware, the Senate, and America will miss him. No Senator ever took his oath of office, his responsibilities as seriously, or executed them as effectively as has JOHN WILLIAMS. Nor do I recall any Senator who was at the same time as unassuming, and genuine as JOHN WILLIAMS. He epitomizes the famous advice from Polonius: This above all, to thine own self be true.

He learned some good and stern lessons as a farm boy, as a young man establishing a small grain and feed operation, and as a very successful businessman and farmer.

He carried these principles with him when he became a Senator in 1947, and he is the same man today he was then. Personally warm and compassionate, no one has been as tough and unyielding when it came to dealing with public corruption. He believes that such conduct by a public official, elected or appointed is, indeed, mud thrown on the flag, the Constitution, the great traditions of his beloved country.

Nor is this a matter of partisan politics; he has fought relentlessly against any betrayal of the public trust, regardless of the political consequences.

For this he gained particular fame, and rightly so.

At the same time he has always displayed an intellectual humility, and a realistic appraisal of himself. This is all part of the genuineness of JOHN WILLIAMS.

Mr. President, we will indeed miss him. But the memory of his career and his approach to public duty will remain and this memory will serve to continue to strengthen this great institution which Senator JOHN WILLIAMS loved so well and served so magnificently.

Mr. JORDAN of Idaho. Mr. President, the 100 men gathered in this body represent 100 different concepts of what is a U.S. Senator. One of our colleagues, who is retiring, will be remembered in history as the personification of the truly conscientious Senator.

Americans have always admired the individualist who has no fear of standing alone with his belief against the popular sway. JOHN WILLIAMS has that quality in great abundance. So it is no surprise to us that the people of Delaware have chosen for the past 24 years to be represented in the U.S. Senate by JOHN J. WILLIAMS.

JOHN WILLIAMS has been an outspoken proponent of fiscal responsibility as well as governmental integrity. He has never hesitated to oppose unnecessary Government spending, regardless of the political consequences.

I have been fortunate enough to work closely with the Senator from Delaware on the Senate Finance Committee where he is ranking minority member. His vast knowledge of finance matters has been a great help to me in my service in the Senate, but the best part of our association has been the friendship which we have solidified during this time.

Senator WILLIAMS has conducted his office in a quiet, unobstrusive manner; yet, through incredible diligence and courage he has brought to light information that has on several occasions rocked the Nation. The term "Conscience of the Senate" is applied to him with admiration and accuracy both by the public and his colleagues.

His dedication to perform the responsibilities of his office will be remembered as the perfect example for students of the democratic process. When Plato envisioned government by philosophers, he dreamed of a body of men who think with the fairness, the honesty, and dedication of JOHN J. WILLIAMS. The U.S. Senate will miss his guidance and his conscience.

We shall all miss JOHN WILLIAMS and his lovely and talented wife, Elsie.

We hope they will come back often and give us the pleasure of their wit and wisdom.

Mr. BAKER. Mr. President, it is characteristic of JOHN WILLIAMS that he has

offered, as one of his last official acts as a Member of the Senate, a proposed amendment to the Constitution to mandate retirement from certain public offices at age 70. Although Senator WILLIAMS has over many years earned many reputations, not the least of those reputations is his dogged adherence to matters of principle.

If the question of mandatory retirement should come to a vote in this Congress or in a later one, I do not know how I will vote on the issue. But I must say that I do not believe that the person of JOHN WILLIAMS is a very persuasive argument for it. It is easy for me, as a relatively young man, to believe that governments should be run by young men. But the vigor and ambition of young men is tempered and balanced by the wisdom and experience that can only come with the passage of time and with age. If losing men like JOHN WILLIAMS is the price we must pay for mandatory retirement, it is a heavy price and must give us pause.

We must respect and respect fully the strength of the principle and conviction that leads him to retirement at the height of his powers and influence. But we will surely miss him and the American people will be the lesser for his absence from this body.

Fortunately for all of us he will be nearby. We will continue to depend on his counsel and his example. I somehow suspect, and certainly hope, that when this Congress ends, we will not have heard the last of our fine and admirable friend.

Mr. FONG. Mr. President, as Senator from the 50th and last State to enter the Union, I rise to join my colleagues in paying well-deserved tribute to the truly able and distinguished senior Senator from the first State of the Union, Delaware, Senator JOHN J. WILLIAMS.

I know the people of Hawaii would want me to give public credit due the illustrious Senator from the first State, who has done so much for his State and his Nation.

I am sure the people of my State would want me to take this occasion to express their warm and deep appreciation to JOHN WILLIAMS for his vote in 1959 for statehood for Hawaii.

The people of Hawaii, like the people of all America, look up to JOHN WILLIAMS with respect and admiration. He has rightly earned the title "Mr. Integrity." By his adherence to high standards of ethics, he has done much to enhance public confidence in government, confidence that is so fundamental to the success of our form of government.

The people of Hawaii, like the people of all America, know JOHN WILLIAMS as the "Watchdog of the Senate"—not only of the Senate's morals and ethics, but of the morals and ethics in all three branches of our Government—legislative, executive, and judicial.

In his four terms in the U.S. Senate, JOHN WILLIAMS has exposed corruption in the Internal Revenue Service, in the Federal Housing Administration, in the U.S. Department of Agriculture, to name but a few examples where he has uncovered wrongdoing. Regardless of the party in power, either in Congress or in the executive branch, JOHN WILLIAMS has been a ardent champion of fiscal responsibility in Government and fair treatment of taxpayers. Trying to close loopholes in our Federal tax laws, which give favored treatment to some taxpayers, JOHN WILLIAMS has always worked for fairness in tax law application and tax collection, in behalf of the millions of quiet, hard-working self-supporting, typical taxpaying Americans.

While I have not had the privilege of serving on any legislative committee with Senator WILLIAMS during my 11 years in this body, I know from his diligence in the Senate Chamber that he is a man of great ability and courage and perseverance and a man who does his homework.

The voters of Delaware know well his valuable service, for they have paid him the signal honor of electing him four times to our Nation's highest legislative body. I congratulate the people of Delaware and on their good fortune in having had JOHN WILLIAMS as a candidate for U.S. Senate and in their good judgment in electing and reelecting him to office.

When the 92d Congress convenes next year, it will seem very strange not to have JOHN WILLIAMS answering the rollcall. But we all take heart from his promise of last year to be an active citizen for many years to come and to take part in community and government affairs.

As my friend begins a new career and a new way of life allowing him more time with his wife and family, Mrs. Fong and I want to extend to him and his gracious wife, Elsie, our best wishes for health, happiness, and future success.

Mr. BELLMON. Mr. President, the distinguished senior Senator from Delaware is one of the best loved, most famous, and highly respected Members of this body. I had admired him from afar before I came to the Senate last year and during my brief service with him this feeling has grown beyond bounds. He has won a large and devoted following in all parts of this country, as well as in many other countries of the world. In my own State of Oklahoma, may of our citizens look upon JOHN WILLIAMS as their third Senator. They particularly approve of his effective and tireless efforts to hold down waste in Government and to ferret out and remove dishonesty wherever it is found.

A recent editorial in the Oklahoma City Times succinctly sums up the feeling of respect which Oklahomans feel toward JOHN WILLIAMS. It reads:

A WATCHDOG RETIRES

Citizens of all shades of political opinion will join in paying tribute to "the watchdog of the Senate" as he retires voluntarily from office after 24 years.

We refer to Sen. John J. Williams (R-Del.) who has made an outstanding name for himself as a tireless foe of corruption in government and unnecessary governmental spending.

When he came to Congress in 1946, this feed store owner made so little impact he was named at the bottom of a ranking list of "most effective senators" compiled by newspapermen covering congress.

Then he began breaking open scandals in the Internal Revenue Department and gradually through other agencies.

The man who had been derided as "Whispering Willie" because he was so soft-spoken in Senate speeches became the Senator who had no trouble getting people to listen.

There is no way to calculate the millions of dollars he saved this nation by his attacks on waste and by his uncovering of skulduggery. Quite as important was the fact that his very presence undoubtedly kept many men honest who otherwise might have strayed. For he had fantastic contacts inside government and became the man to whom an endless flow of tips came.

His record includes never taking a foreign junket at public expense. And he opposed tax advantages for the wealthy.

Sen. Williams was a public servant par excellence. Without question he will be missed.

Mr. President, I join my fellow Oklahomans in this attitude and am pleased to have an opportunity to pay tribute to Senator WILLIAMS today. I commend him for his outstanding record and wish him equal success in his next career.

Mr. PROUTY. Mr. President, in February, when JOHN WILLIAMS announced his retirement, I tried to envision the Senate without him. It was difficult to do then. It still remains so.

In 24 years, Senator WILLIAMS has been the Senate's conscience and chief investigator. He has rigidly applied his high moral standards to all in public service. He has relentlessly sought to expose and eliminate corruption in Government. He has fought for the often forgotten American taxpayer when matters of spending are before us.

He has followed his principles and pursued his goals with unmatched dedication and energy. He is known as one of the Senate's hardest workers and he has earned the reputation.

He has been without equal in the thoroughness of his research. Time and again, he has presented this body with compelling statistics and arguments.

In his quiet way, he has been most persuasive. On those occasions when he has not convinced a majority to agree, I know he has compelled all of us to stop and think.

On the occasion of his retirement as I contemplate the Senate without JOHN WILLIAMS, I know that in my future service in the Senate, before acting I will often stop and consider "What would JOHN WILLIAMS do?"

He may be retiring but his example will long be before us. I cannot think of a finer example.

Mr. GURNEY. Mr. President, I am glad to join my colleagues in saluting one of the finest gentlemen in the Senate, Senator JOHN J. WILLIAMS, of Delaware. As he retires from the Senate, it is entirely appropriate that we pay him tribute for his years of dedicated and selfishless service to the Nation and to the State of Delaware.

He is a man of matchless integrity, determination and judgment—a man who always put the public's welfare ahead of any personal consideration. In fact, in the Senate he has become known as Mr. Integrity.

Over the years, he has served as a model for fiscal responsibility and economy in Government. His record of service really needs no amplification. His record stands by itself. It has earned him

not only the esteem of his colleagues, but the thanks of the Nation as well. It is fair to observe that the Nation has profited greatly and is the richer because of the Senate service of JOHN WILLIAMS. He will be sorely missed when he leaves this body.

The best we can hope for our Nation, is that it will continue to attract to its public service, men of the caliber of JOHN J. WILLIAMS.

Mr. HOLLINGS. Mr. President, I deem it a distinct honor to join today in tribute to the retiring senior Senator from Delaware (JOHN WILLIAMS). In paying tribute to the man, we also honor an ideal. It is the ideal of unrelenting integrity. The career of the distinguished Senator from Delaware is founded on the integrity of thought and action. No matter what the issue, we could always count on JOHN WILLIAMS to pursue it with unyielding determination. And no matter what the consequences, we knew he would never falter in carrying his conclusions into action. His probity and candor won him the admiration of his colleagues and the respect of a nation. That respect transcends geographical boundary as well as political party affiliation. My own State of South Carolina is a goodly distance from Delaware, and the political sympathies of our people generally run toward a different political party than that of JOHN WILLIAMS. Yet, I know full well the respect with which South Carolinians look on the distinguished senior Senator from Delaware. In praising Senator WILLIAMS, then, I not only speak for myself but also for the people of my State.

The political climate has changed very drastically in the past few years. The standards of conduct observed by politicians have noticeably risen, and the cruder aspects of wheel-and-deal are today, for the most part, to be found in history. And while no single man can be credited with such profound change, some men deserve more credit than others. None, I think, deserves more than my good friend from Delaware. His service provides a legacy of unflinching integrity that will continue to influence this Chamber after he takes leave of it in January.

Mr. President, I count myself fortunate in having served alongside this man and in enjoying and profiting from his friendship. I join my colleagues in wishing for him a happy retirement.

Mr. SCHWEIKER. Mr. President, it is most fitting for the Senate today to honor one of our most outstanding Members, JOHN WILLIAMS of Delaware, and it gives me great pride to join this colloquy.

In his 24 years in the Senate, his record of integrity and commonsense has made him one of the most valuable Members of this body, and the example he has set in his personal conduct has been an inspiration to all of us.

Publicly known as the conscience of the Senate, he has performed an invaluable service to the Congress, and the Nation, by leading efforts to insure that congressional ethics are of the highest order, and by not being afraid to publicly point out when congressional conduct has failed to meet the high standards demanded of it.

In an era when many of our institutions and procedures have come under criticism for failing to remain as responsive as necessary to the changing demands of our times, Senator JOHN WILLIAMS has remained a rock of integrity, and has shown the people of our country that efforts will be made to keep our own house in order, and the Government can, and will, set high standards.

All of us can point to specific experiences when JOHN WILLIAMS' guidance, and example, has been helpful to us in carrying out our responsibilities. For instance, last year, when I was interested in setting up an auditing system for major defense contracts, JOHN WILLIAMS' ideas about fiscal integrity, and his warm support for my proposal, were of major assistance to me.

Since Pennsylvania is a neighbor of his great State of Delaware, I come into contact from time to time with constituents of his, and I can attest to the great esteem and pride with which the people of Delaware hold Senator WILLIAMS. In addition, because of his exemplary conduct and impressive record during his long career, the people of Pennsylvania also think highly of Senator WILLIAMS, and will often cite his record to me as an inspiration for my own work in the Senate.

All of us will miss JOHN WILLIAMS now that he has decided to retire, and his contributions to the work of the Senate and warm congeniality. However, his reputation and record of honesty and integrity are an integral part of Senate history, and will continue to be an inspiration, so that his work will continue.

I would like to say personally to JOHN that his counsel and guidance has been appreciated, and I look forward to his future visits to the Senate he has served so well.

Mr. GOLDWATER. Mr. President, it has been my distinct pleasure to have served 14 years in this body with the man we honor today, Senator JOHN WILLIAMS of Delaware. I feel that I have come to know him well, and I feel that I understand him, but more importantly, I know that this association has made a better man out of me.

He has that high integrity and everlasting honesty and forthrightness that all of us secretly wish that we possessed. His decision to retire this year, I think, will have an everlasting good effect upon the whole Congress, because he has set an example that I think we all should seriously consider, and I am very grateful to him for this.

As he continues life in his native Delaware, I hope and pray that he will yield to the pressures that will be put on him to further serve his Government in some capacity, because his talents are many, and his talents are sorely needed.

I wish for him nothing but a long life of happiness and continued success.

Mr. STEVENS. Mr. President, I am pleased to have the opportunity today to express the appreciation I have for the lessons I have learned in my first 2 years in the Senate from the distinguished Senator from Delaware. Those lessons have been lessons well learned, I hope

During the 24 years that JOHN J. WILLIAMS has served in this body, he has earned a reputation as the "fiscal watchdog" of the Senate. And, I can tell anyone, that no one has been able to get anything past him. Yet, he has been the first to offer suggestions and to assist new members without regard to whether he agreed with their goals. JOHN has served his State and his Nation well. He has probably prevented us from embarking on some grandiose, but ill-thought-out schemes that at the time seemed like a good idea; but in retrospect, it appears he has been right to question and check those who sought to act in haste.

I wish him the very best in his retirement and I am glad to have had the benefit of his presence during my freshman years. Above all, I know Delaware is very close and that JOHN will often be the 101st Senator on this floor for years to come. I shall welcome his advice and counsel, always.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER (Mr. FULBRIGHT). The pending question is on the adoption of the conference report on H.R. 17755.

ORDER FOR RECOGNITION OF SENATOR LONG TODAY

Mr. LONG. Mr. President, I ask unanimous consent that when the Social Security Amendments of 1970 are laid before the Senate at 3 o'clock, I be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE. Mr. President, what was the unanimous-consent request?

Mr. LONG. I asked that when the social security bill was laid before the Senate at 3 o'clock, the manager of the bill be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD of West Virginia. 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.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of measures on the calendar beginning with Calendar No. 1459 and taking the rest of the calendar in sequence.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LUANA GAJA

The bill (S. 3971) for the relief of Luana Gaja was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Luana Gaja shall be held and considered to be the natural-born alien daughter of Charles K. Hekekia, a citizen of the United States. The natural mother, brother, or sister of the said Luana Gaja, by virture of such relationship, shall not be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1447), 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 purpose of the bill is to enable the beneficiary to qualify for first preference status as the unmarried daughter of a citizen of the United States.

MAUREEN O'LEARY PIMPARE

The bill (H.R. 12962) for the relief of Maureen O'Leary Pimpare 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. 91–1448), 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 purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a violation of narcotic laws in behalf of the wife of a U.S. citizen and honorably discharged veteran of the U.S. Air Force.

JACK A. DUGGINS

The bill (H.R. 14271) for the relief of Jack A. Duggins 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. 91–1449), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to pay Jack A. Duggins $1,266.59 in settlement for his claims for losses he suffered in disposing of property and arranging his personal affairs in order to depart for an assignment in Hawaii as an employee of the Air Force, which was canceled just prior to the time he was to depart.

STATEMENT

The Committee on the Judiciary of the House of Representatives in its favorable report said:

"The Department of the Air Force in its report to the committee on the bill stated that it would not object to the bill's enactment if it is amended as recommended by the committee.

"Mr. Duggins, a civilian employee of the Department of the Air Force at Norton Air Force Base, Calif., was notified on February 5, 1969, that he had been tentatively selected for a position of program analyst, GS–11, with duty station at Hickam Air Force Base, Hawaii. He was counseled in writing at the time not to dispose of his home, sell his furniture, or take any action that would affect his present position, in the event the tentative selection did not result in a definite appointment.

"As a part of the processing requirements for his oversea employment, Mr. Duggins was instructed to report for a medical examination at the Norton Air Force Base dispensary on February 12, 1969. The medical examination was performed on that date and Mr. Duggins was permitted to handcarry a duplicate copy of the completed health qualification placement record to the civilian personnel office to expedite processing for his assignment to Hawaii. The duplicate copy of the health qualification placement record indicated that his physical handicap code was 'OO,' that is, no placement record indicating that the medical examination had been satisfactorily completed, the civilian personnel office at Norton Air Force Base requested permanent change of station travel orders for Mr. Duggins. Travel Order No. A–478 was prepared February 14, 1969, and issued February 17, 1969, authorizing Mr. Duggins to travel to Hickam Air Force Base, Hawaii, for permanent assignment with the Department of the Air Force. He was also authorized transportation of his dependents and shipment of household goods and personal effects not to exceed 11,000 pounds net weight.

"On February 14, 1969, a teletype message was received at Norton Air Force Base civilian personnel office from Hickam Air Force Base advising that Mr. Duggins would be required to perform frequent periods of temporary duty travel throughout the Far East, and requesting his acceptance of the added position requirement. Written concurrence was secured from Mr. Duggins and Hickam Air Force Base was advised on February 14, 1969.

"The original copy of the health qualification placement record and certificate of medical examination was received by mail in the civilian personnel office from the Norton Air Force Base dispensary on February 19, 1969. The form indicated a physical handicap code of '51' (organic heart disease) and restricted Mr. Duggins' assignment to the Hawaii area. An explanatory note on the transmittal memo routing slip from the dispensary to the civilian personnel office called attention to the change in the physical handicap code on the health qualification placement record and requested correction of the duplicate copy which had been given to Mr. Duggins after his medical appointment.

"Mr. Duggins was advised of receipt of the medical examination restrictions. He requested another medical examination by a different medical officer. A second medical examination was performed on February 19, 1969. It also precluded travel by Mr. Duggins to the Far East area, specifically excluding Thailand, Vietnam, or any combat or danger zone.

"Mr. Duggins was advised on February 19, 1969, that all processing actions were suspended pending further instructions from Hickam Air Force Base. A teletype message was sent to Hickam Air Force Base advising of the medical restrictions excluding Mr. Diggins from performing travel for temporary duty travel to Thailand or Vietnam, stating that Mr. Duggins was willing and available if TDY duty adjustment could be made, and requesting further instructions.

"Hickam Air Force Base responded that the temporary duty travel requirement of the position could not be adjusted because several military officers who normally had performed temporary duty travel to Southeast Asia had been reassigned without replacements, and that since it was necessary to assign the travel requirement to civilian positions, including the one scheduled to be filled by Mr. Duggins. Since the travel requirement could not be adjusted and since the medical examination precluded Mr. Duggins from performing such travel, his assignment to Hickam Air Force Base had to be canceled and the travel orders revoked."

Mr. Duggins states that it was necessary for him to have a sale of household goods prior to the anticipated move to Hawaii. He cites the following reasons for the sale: lack of authorization for nontemporary storage of household goods for employees making permanent change of station moves to Hawaii, weight limitation of 11,000 pounds on shipments of household goods, and the time element involved in his particular situations. He stated that all items of household goods were sold at a loss during the period from February 14, 1969, to February 19, 1969. Initially, he also claimed loss of earnings by his wife in the amount of $450 due to the loss of five music pupils when she notified her class of the expected move to Hawaii.

In its report to the committee on the bill, the Department of the Air Force stated that there are no known administrative remedies which would make it possible to grant Mr. Duggins relief in this situation. In fact he did submit a claim to the Air Force in March of 1969 and after being considered by the Air Force, Mr. Duggins was advised that the losses which were the subject of the claims were not cognizable under any statute or regulation administered by the Air Force.

The committee has determined that the circumstances of this case provide a basis for legislative relief. The Air Force reviewed the last of household goods that are involved in this matter and the Claims Division of the Air Force determined that had this been for damaged or lost household goods which might have been settled under existing statutes, the Air Force could have approved a claim in the amount of $1,266.59 based on the figures submitted by the claimant, and taking into account the amount received in the forced sale. This computation excludes that portion of the claim relating to loss of prospective earnings of Mr. Duggins' wife as a piano teacher. The amount fixed by the Air Force by applying applicable regulations concerning depreciation which came to $2,052.09 which was then reduced by the amount received by Mr. Duggins at the forced sale of the items which equaled $785.50. The balance of $1,266.59 is the amount recommended by the committee in its amendment.

"The Air Force stated that it did not object to enactment of the bill with the amendment reducing the amount to $1,266.59 and summarized its position as follows:

" 'In summary, a definite appointment commitment was made to Mr. Duggins for assignment to Hickam Air Force Base, Hawaii. The offer of appointment was made and accepted in good faith and Mr. Duggins completed all processing requirements for the assignment. On February 14, 1969, Mr. Duggins was orally advised by civilian personnel officials at Norton Air Force Base that his assignment to Hawaii had been approved and that his travel orders were being

prepared. It can be considered that he had been given a definite appointment commitment at this point in time. The orders were subsequently delivered on February 17, 1969. Mr. Duggins was willing and available to perform temporary duty travel to Southeast Asia but, because of subsequent medical determinations, was precluded from performing such travel; his assignment to Hickam Air Force Base had to be canceled and the travel orders revoked and Mr. Duggins suffered losses incident to the unconsummated move. Based upon the foregoing, the Department of the Air Force interposes no objection to the enactment of H.R. 14271 in an amount the would have been allowable as a claim for lost or damaged household goods under existing statute or regulation. On this basis, the claim would be allowable in the amount of $1,266.59.

"'As a part of his claim, Mr. Duggins has included $450 representing a loss of income to his wife. He indicates that five of her piano students quit her class, supposedly because of the pending transfer to Hawaii. This portion of the claim is strongly opposed. To extend the Government's responsibility to reimbursement of dependents for loss of income in their private endeavors is a most undesirable precedent. Furthermore, the students were free to quit the class at any time or for any reason. That the students were lost to Mrs. Duggins solely because of her husband's transfer and that she would have sustained a loss of $450 as a result is speculation.'

"In view of the foregoing and the circumstances of this particular case, the committee recommends that the bill be considered favorably, with the committee amendment reducing the amount provided in the bill to $1,266.59."

The committee believes the bill is meritorious and recommends it favorably.

DAVID L. KENNISON

The bill (H.R. 15272) for the relief of David L. Kennison 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. 91–1450), explaining the purposes of the measure.

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

STATEMENT

The Department of Transportation in its report to the House Judiciary Committee on the bill stated that it endorses the proposed legislation. The U.S. Civil Service Commission in its report stated that it had no objection to the bill.

PURPOSE

The purpose of the proposed legislation is to pay David L. Kennison the sum of $1,307.88 in full settlement of all his claims against the United States for the amount he paid in expenses incurred in a move from the State of Arizona to the District of Columbia for the purpose of employment with the Department of Transportation after departmental representatives indicated the Government would pay or reimburse expenses incident to selling an Arizona residence and buying a Virginia residence, a per diem allowance for each member of his family, the cost of temporary quarters, and other miscellaneous expense.

Prior to accepting employment with the National Highway Safety Bureau of the Department of Transportation, Mr. Kennison was informed that his relocation expenses would be paid by the Government. Further, a travel authorization was issued in his name which confirmed this information. In its report to the committee on the bill the Department of Transportation noted that prior to accepting this offer of employment, Mr. Kennison had previously declined positions with the National Transportation Safety Board and the Bureau of Roads. In each of those instances he had declined the position because of the prohibitive cost of relocating his family of six from Phoenix, Ariz., to Washington, D.C.

Obviously the offer concerning relocation expenses was a factor in Mr. Kennison's decision to accept employment in Washington, D.C. This is also reflected in the report of the Department of Transportation which commented on these aspects of the case as follows:

"Since he accepted the offer of employment with the understanding his relocation expenses were fully reimbursable, it is our conclusion he would have declined had he been aware that he was not entitled to all of the allowances enumerated in travel authorization. The fact that he declined two previous offers of employment on this basis reinforces our judgment."

In its report the Civil Service Commission noted that a new employee under these circumstances could not be expected to know all of the technicalities of the regulations applicable in such a case. It observed that it would impose an unfair and unnecessary burden on Mr. Kennison under these circumstances.

The departmental report stated that Mr. Kennison's travel voucher has been reaudited to establish the extent to which he would have been eligible for reimbursement if his relocation expenses had not been disallowed. On the basis of this review, the original disallowance was found to include several items not eligible for reimbursement under any circumstances. These consist of an excessive appraisal fee ($245 too high), an insurance application and premium of $162.50 (not allowable) and a storage overclaim of $6.23 for a total of $413.73; which would have reduced his disallowance to $1,307.88. The Department stated that this has been discussed with Mr. Kennison who understands the necessity for reducing his claim by the amount indicated. Accordingly, the House committee recommended that the bill, H.R. 15272, be amended to provide for a payment of $1,307.88 in order to cover the expenses authorized in his travel order for which he cannot otherwise be reimbursed.

This committee is in agreement with the conclusion reached by the House Judiciary Committee and accordingly recommends favorable consideration of H.R. 15272, without amendment.

CERTAIN INDIVIDUALS EMPLOYED BY THE AIR FORCE AT KELLY AIR FORCE BASE, TEX.

The bill (H.R. 10150) for the relief of certain individuals employed by the Department of the Air Force at Kelly Air Force Base, Tex., 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. 91–1451), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve the following employees of the Air Force at Kelly Air Force Base of liability to the United States in the amounts shown opposite their names of overpayments of compensation due to administrative error received prior to July 1, 1960:

Individuals whose claims for overpayment were partially waived under Section 5584 of Title 5, United States Code

Name	Amount of overpayment not waived
Bryant, John M	$124.80
Courvier, Joe	97.32
Gillum, Richard A	542.45
Green, William R	43.44
Hernandez, Santos A	80.60
Herrera, Jimmie	93.40
Huntley, Dick M	89.60
Moore, Harvey L	84.81
Rosel, Consuelo O	21.60
Springs, Zea A	121.89
Vaughn, Betty L	106.90

Individuals with claims (either in whole or part) for overpayment to which Section 5584 of Title 5, United States Code, does not apply

Name	Amount of overpayment
Seay, Henry A	$20.78
Snyder, Donald A	109.84

The bill would authorize the payment of any amounts paid or withheld by reason of the liabilities referred to in the bill.

STATEMENT

The Department of the Air Force in its report to the House Judiciary Committee on the bill has indicated that it would have no objection to the enactment of the bill because of the circumstances surrounding the overpayments.

As has been outlined above, this bill would relieve certain Air Force civilian employees at Kelly Air Force Base, Tex., of liability to repay to the United States amounts representing overpayments of compensation received by them because of administrative error during a period before July 1, 1960 (and to which the waiver provisions of sec. 5584 of title 5, United States Code, do not apply.)

Overpayments involving the first 11 employees named in the bill resulted from administrative error in granting within-grade increases before the expiration of the required waiting period of service prescribed by 5 U.S.C. 5335. The other two employees named in the bill were overpaid because of administrative error in establishing their rate of pay upon their promotion during the 2-year salary retention period provided for in 5 U.S.C. 5337.

The overpayments were discovered during a General Accounting Office audit of civilian employee pay accounts at Kelly Air Force Base, and during a subsequent audit by Air Force personnel. The employees were informed of the errors and corrective personnel actions were taken.

The cases were submitted to the Comptroller General for consideration and possible waiver of the indebtedness under the provisions of Public Law 90–616, approved October 21, 1968. The Comptroller General's letter dated February 26, 1969 (B–160569), waived all of the debts involved, except those amounts which arose prior to July 1, 1960.

The committee recognizes that the overpayments referred to in this bill are similar to the overpayments at the same base which were the subject of consideration by the Comptroller General under section 5584 of title 5. That section was added to title 5 by Public Law 90–616 and grants authority for the waiver of claims by the United States for erroneous payments of pay to an employee of an executive agency when it is determined that collection would be against equity and good conscience and not in the best interests of the United States. Since this statutory authority only applies to payments on or after July 1, 1960, the relief granted to the employees at Kelly Air Force Base only applied to erroneous payments which were made after that date. As is affirmatively stated in H.R. 10150, the amounts set forth in the bill were paid before July 1,

1960. In effect the bill extends relief on the same basis as was granted to the other employees for payments after that date.

As is noted in the Air Force report, there are no administrative procedures under which the Air Force could relieve these individuals of their liability to repay these overpayments. The Air Force also found that the employees received the payments in good faith and in reliance upon determinations of responsible officials. In indicating that it had no objection to the bill, the Air Force stated:

Based upon the circumstances surrounding the overpayments to the employees described in the bill, the Department of the Air Force interposes no objection to the enactment of H.R. 10150.

The committee is in agreement with the conclusion reached by the House committee that this bill has a meritorious purpose and accordingly recommends favorable consideration of H.R. 10150 without amendment.

SIU-KEI-FONG

The Senate proceeded to consider the bill (S. 2793) for the relief of Siu-Kei-Fong, which had been reported from the Committee on the Judiciary with an amendment in line 6, after the word "filed," strike out "in her behalf and insert "in his behalf"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Siu-Kei-Fong may be classified as a child within the meaning of section 101(b)(1)(F) of that Act, and a petition may be filed in his behalf by Hee Fong, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That no brothers or sisters of the beneficiary shall thereafter, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for 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. 91–1452), 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 purpose of the bill, as amended, is to facilitate the entry into the United States in an immediate relative status of the alien child adopted by a citizen of the United States. The has been amended to correct an error in drafting to reflect the proper sex of the child.

ESTHER CATHERINE MILNER

The Senate proceeded to consider the bill (S. 4261) for the relief of Esther Catherine Milner, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That, in the administration of the Immigration and Nationality Act, Esther Catherine Milner may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Lee W. Milner and Nancy Ross Milner, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for 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. 91–1453), 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 purpose of the bill as amended is to facilitate the adjustment of status as an immediate relative of the alien child adopted by citizens of the United States. The bill has been amended in accordance with established precedents.

DR. HAHN JOONG LEE

The Senate proceeded to consider the bill (S. 3977) for the relief of Dr. Hahn Joong Lee, which had been reported from the Committee on the Judiciary with amendments on page 1, line 5, after the word "to", where it appears the first time, strike out "be" and insert "have been"; in line 6, after "1965" strike out the period and insert "upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Hahn Joong Lee shall be held and considered to have been lawfully admitted to the United States for permanent residence as of June 30, 1965, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203 (a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for 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. 91–1454), 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 purpose of the bill, as amended, is to enable the beneficiary to file a petition for naturalization. The bill has been amended in accordance with the suggestion of the Commissioner of Immigration and Naturalization to provide for the payment of the required visa fee and for an appropriate visa number deduction.

BILL PASSED OVER

The bill (H.R. 19868) to amend the Internal Revenue Code of 1954 to accelerate the collection of estate and gift taxes, to continue excise taxes on passenger automobiles and communication services, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

RUTH V. HAWLEY, MARVIN E. KRELL, ALAINE E. BENIC, AND GERALD L. THAYER

The bill (S. 1009) for the relief of Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer was considered, ordered to be engrossed for a third reading, 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 following named individuals are hereby relieved of all liability to the United States in the amounts set opposite their names:

Ruth V. Hawley, $528.37;
Marvin E. Krell, $305.78;
Alaine E. Benic, $303.14; and
Gerald L. Thayer, $99.87;

in each instance representing the amount they were held to be required to pay out of their own funds to replace amounts taken from locked clerks' drawers on April 27, 1968, at the Clare, Michigan post office, when these drawers were broken open in a burglary which occurred that date.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1456), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Clerks Ruth V. Hawley, Marvin E. Krell, Alaine E. Benic, and Gerald L. Thayer of liability to the United States for amounts stolen from their individual fixed credits during a burglary of the Clare, Mich., post office.

STATEMENT

The facts of the case contained in the report from the Post Office Department are as follows:

"The post office at Clare, Mich., was burglarized on the night of April 27, 1968. The burglars gained entry into the post office through a basement door by breaking the lock and splintering the door. An attempt was made to break into the walk-in vault of the post office, but the attempt failed. Investigation disclosed that Government loss of $1,237.16 was incurred when the vandals ransacked the envelope drawers of the four clerks causing shortages in stamp stock as follows:

"Ruth V. Hawley	$528.37
Marvin E. Krell	305.78
Alaine E. Benic	303.14
Gerald L. Thayer	99.87
Total	1,237.16

"The postmaster's claim for credit due to the loss was disallowed because the clerks had failed to place their stamp stock in the

vault after their tour of duty ended, as required by postal regulations (Postal Manual 321.2).

"The enactment of S. 1009 would relieve the subject clerks of reimbursing the Government in amounts stated above opposite their respective names.

"Under existing law, the Department has no alternative but to charge losses of this character to the postmaster and/or other employees whose negligence contributed to the loss. This practice is not in accord with current viewpoints of enlightened personnel management. Although liability is expressed in terms of compensating the Government for its loss, it must be looked upon realistically as a punishment and its enforcement as a deterrent against future negligence.

"The assessment of liability as punishment is capricious. This is illustrated by this case in which the liabilty of the clerks vares from $528.37 to $99.87, although their fault was the same. Other equitable consideration likewise cannot be evaluated under current law.

"We believe some relief might be granted in this case. However, consideration should also be given to the fact that the employees were negligent. For the foregoing reason, we believe the bill should be amended to provide that the Postmaster General, upon a determination that it is appropriate to do so, is authorized to relieve the employees named on such terms as the Postmaster General deems just and expedient of liability in whole or in part with respect to the transaction involved."

The committee is of the opinion that hardship cases such as this should be handled by general legislation. However, the committee also feels that these claimants should not be penalized for the lack of such general legislation. Nor does the committee believe that the bill should be amended to handle this situation in a piecemeal fashion. Accordingly, it is recommended that the bill be passed in its existing state.

ALICE E. FORD

The bill (S. 1984) for the relief of Alice E. Ford was considered, ordered to be engrossed for a third reading, 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 Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Alice E. Ford, of College Park, Maryland, the sum of $405 in full settlement of all her claims against the United States arising out of the administrative error made with respect to the amount of salary to which the said Alice E. Ford was entitled while an employee of the Office of War Information.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1457), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill is to authorize and direct the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated to Alice E. Ford, of College Park, Md., the sum of $405 in full settlement of all her claims against the United States arising out of the administrative error with respect to the amount of salary to which the said Alice E. Ford was entitled while an employee of the Office of War Information.

STATEMENT

The facts of the case contained in the report of the Civil Service Commission are as follows:

"The Commission's files and information furnished informally by the General Accounting Office indicate two instances when salary payments or allotments were erroneously made to Miss Ford.

"The first overpayment totaling $405 was during the period July 1944 through March 1945, while Miss Ford was serving with the Office of War Information in Dublin. Although her official personnel papers specified a salary of $3,200, she was paid at $3,800. This $405 overpayment was later liquidated by deductions from Miss Ford's salary and allowances and by her personal check.

"The second overpayment resulted from salary allotments credited to her account after her separation from the Federal service on August 15, 1946. To relieve this indebtedness, the State Department on June 2, 1947, requested the Civil Service Commission to withhold the sum of $611.66 from the refund of Miss Ford's retirement deductions. These retirement deductions then amounted to $668.91. The Treasury Department was authorized to pay the Government claim and the remaining $57.25 was refunded to Miss Ford.

"In August 1964, Miss Ford reentered Federal service and made redeposit to the retirement fund covering her earlier service.

"The Commission has no information about the basis on which Miss Ford is now claiming the $405 salary overpayment that was refunded in 1945 and 1946. Conceivably her action may be prompted by the enactment of Public Law 90–616, October 21, 1968 (5 U.S.C. 5584), which under certain conditions, permits waiver of claims of the United States for erroneous payments of pay. The provisions of that law, however, are applicable only where the error was made on or after July 1, 1960."

It is noted that the Comptroller General in a previous report on a similar House bill "would not object to legislative action to authorize refund to her (Miss Alice Ford) of the $405 overpayment in question".

The committee believes that this is a proper case for relief and in agreement with the views of the Comptroller General the committee recommends the bill favorably.

BILL PASSED OVER

The bill (S. 1985) for the relief of Randall L. Talbot was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

LT. ROBERT J. SCANLON

The bill (H.R. 12621) for the relief of Lt. Robert J. Scanlon 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. 91–146), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to authorize the Secretary of the Navy to pay severance pay to Lt. Robert J. Scanlon, formerly of the Supply Corps of the U.S. Navy, an amount equal to the difference between the severance pay received by him at the time of his discharge from the Navy and the severance pay that would have been paid him if the computation of that pay had been based on his total commissioned service, including his service as a line officer.

STATEMENT

The facts of the case as contained in House Report No. 91–1043 are as follows:

"The Department of the Navy in its report to the committee on the bill states that it has no objection to its enactment.

"Lieutenant Scanlon was commissioned as an ensign in the line of the Navy and served as a line officer for 3 years. He then transferred to the Supply Corps and served in that corps for 8 years. He failed of selection for promotion to lieutenant commander for the second time in fiscal year 1967, and on June 30, 1967, he was discharged pursuant to 10 U.S.C. 6382. At the time of his discharge, Lieutenant Scanlon was entitled to severance pay in the amount of 2 months' basic pay multiplied by the number of years of commissioned service as computed under the then existing provisions of 10 U.S.C. 6388.

"At the time of Lieutenant Scanlon's discharge, the Comptroller General and the U.S. Court of Appeals for the District of Columbia Circuit interpreted 10 U.S.C. 6388 to provide that a staff corps officer who had prior service in the line could count only his staff corps service in computing his total commissioned service (37 Comp. Gen. 747 (1958), 44 Comp. Gen. 1–49 (1964), *Payson* v. *Franke*, 282 F. 2d 851 (D.C. Cir. 1960)). The act of September 20, 1968, Public Law 90–502, 82 Stat. 852, amended 10 U.S.C. 6388 to correct this situation for officers discharged under similar circumstances after the effective date of the amendatory act. However, officers who were discharged prior to the enactment of the act of September 20, 1968, supra, do not have the advantages of that act.

"The Department of the Navy in its report observed that other former officers in situations similar to that of Lieutenant Scanlon have received relief through private legislation. The Navy report lists a number of private laws. The report also noted that general legislation has been proposed to correct the inequity illustrated by Lieutenant Scanlon's case where the law fails to provide for recognition of commissioned service by certain Supply Corps officers who previously served as line officers.

"The committee notes that a similar situation existed at the time it took favorable actions on the bills granting relief in the similar cases referred to by the Navy. It appears that as observed by the Navy, this situation should be corrected by public law, however, in the absence of such a law, Lieutenant Scanlon's only recourse was to appeal to the Congress for relief as provided in this bill. The committee has concluded that it is inequitable to deny this officer credit for his commissioned service as a line officer. In view of this fact and in view of the position of the Department of the Navy that it has no objection to relief in this instance, it is recommended that the bill be considered favorably."

In agreement with the views of the House the committee recommends the bill favorably.

JAMES M. BUSTER

The bill (H.R. 4983) for the relief of James M. Buster 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. 91–1459), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve James M. Buster, of Arlington, Va., of liability to repay $396.51 for overpayment of compensation paid him during 1967 as an employee of the U.S. Government Printing Office in Washington, D.C.

STATEMENT

The facts of the case as contained in House Report No. 91–1071 are as follows:

"The Comptroller General of the United States in his report to the committee on the bill indicated that the General Accounting Office would interpose no objection to private relief with the amendment recommended by the committee correcting the amount shown in the bill.

"As is noted in the report of the Comptroller General, the Government Printing Office, established a promotion plan for linotype machinist helpers, effective May 14, 1950, which provided that, for the first year, the helpers would receive wages equal to the prevailing skilled labor rate. Mr. Buster entered this plan on May 21, 1967, and agreed to accept an hourly pay rate of $2.06, plus a 15-percent night rate differential.

"On July 1, 1967, the plan was modified to provide that, for the first 6 months, apprentices and trainees would receive wages equal to 50 percent of the lowest paid GPO craft rate. This modification increased Mr. Buster's hourly rate to $2.09.

"The modified plan of July 1, 1967, also provided that the wages of trainees would be increased to 55 percent of the assigned craft rate after the trainee completed 6 months of the program. Although Mr. Buster was not eligible for this increase until November 19, 1967, his wages were erroneously increased on July 16, 1967, to 55 percent of his assigned craft rate, thus increasing his hourly wage to $2.47.

"From July 16 through November 18, 1967, the gross wages received by Mr. Buster, including night rate differential and overtime pay, amounted to $2,724.27. The GPO subsequently discovered the premature pay increase and computed the overpayment to be $422.07. The GPO then took action to collect this amount from Mr. Buster.

"The General Accounting Office review disclosed that in computing the overpayment the GPO used an hourly rate of $2.09 as the amount that should have been paid to Mr. Buster. This amount was in error because it did not take into consideration two pay adjustments which were made to the lowest paid GPO craft. Under the provisions of the modified plan of July 1, 1967, Mr. Buster was entitled to 50 percent of these pay adjustments. Therefore, the GPO should have used hourly rates of $2.13 and $2.18, effective October 4 and November 7, 1967, respectively, instead of the $2.09 used to determine the amount that should have been paid. The overpayment, recomputed on the basis of the adjusted pay rates, is $396.51.

"The Committee has carefully considered this bill in light of the recommendations of the General Accounting Office. Its review of Mr. Buster's case disclosed that there were no indications of fraud, misrepresentation, fault, or bad faith on the part of the employee in connection with the erroneous payments. The General Accounting Office further found that the erroneous payments made in Mr. Buster's case are of a type as to which the Comptroller General could have granted relief under Public Law 90—616 if that act were applicable to employees in the legislative branch of the Government. The problem is that that law does not presently apply to employees of the legislative branch, such as Mr. Buster. Accordingly, he can only obtain relief by private legislation. For these reasons, the General Accounting Office interposes no objection to the enactment of private legislation in his behalf. The committee agrees that legislative relief is merited in this situation and recommends that the amended bill be considered favorably."

In agreement with the views of the House, the committee recommends the bill favorably.

SAMUEL R. STEPHENSON

The bill (H.R. 10704) for the relief of Samuel R. Stephenson 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. 91–1460), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to relieve Samuel R. Stephenson, of Bessemer, Ala., of liability to the United States in the amount of $447.59 for overpayments of pay and allowances by the Department of the Air Force during the period from June 19, 1962, to April 30, 1968, as a result of administrative error. The bill would authorize the repayment of any amounts paid or withheld because of that liability.

STATEMENT

The facts of the case as contained in House Report No. 91–1232 are as follows:

"The Department of the Air Force in its report to the committee on the bill has stated that it has no objection to its enactment. Mr. Stephenson enlisted in the Air Force at Atlanta, Ga., on February 1, 1961. He was discharged from this enlistment on April 30, 1964, at Minot Air Force Base, N. Dak. He reenlisted in the Air Force for 4 years on May 1, 1964. He completed this enlistment and was discharged at Randolph Air Force Base, Tex., on April 30, 1968.

"Following his discharge, the Air Force Accounting and Finance Center made an audit of Mr. Stephenson's pay account covering the period of his active duty. This audit showed—

"'(a) After returning to duty from leave, which ended on June 19, 1962, he continued to receive payment for leave rations (subsistence allowance) through June 28, 1962, while he was being subsisted by the United States. This resulted in an overpayment of $10.83. (Payment of subsistence allowance under these circumstances is contrary to 37 U.S.C. 402(b).)

"'(b) He was erroneously granted a longevity pay increase on January 1, 1964, 1 month before he completed 3 years' service and before he was entitled to the rate of pay authorized for a member who has over 3 years' service, resulting in an overpayment of $10.

"'(c) When he was discharged on April 30, 1964, he received a payment of $66.25. This payment, identified as payment for basic allowance for quarters in connection with accrued leave, was not authorized since he was not entitled to payment for accrued leave. This resulted in an overpayment of $66.25.

"'(d) When he was discharged on April 30, 1964, he immediately reenlisted in the Air Force. He was paid a mileage allowance of $111.30 for travel from Minot Air Force Base, N. Dak., where he was discharged, to Bessemer, Ala., his home of record. This payment was contrary to the joint travel regulations which prohibit payment of mileage allowance to members discharged for the express purpose of reenlisting in the same uniformed service.

"'(e) He reenlisted in the Air Force on May 1, 1964, for 4 years and was paid a reenlistment bonus of $704.91. He was entiteld to a reenlistment bonus of $620 since on date of discharge he was being paid at the rate of $155 a month and under the law (37 U.S.C. 308(a)) the bonus is computed by multiplying base pay on date of discharge by the number of years specified in the reenlistment contract. This resulted in an overpayment of $84.91.

"'(f) During a period of hospitalization (April 8, 1968, until April 16, 1968), he was furnished meals and was paid basic allowance for subsistence totaling $10.56. Payment of this allowance while he was being subsisted by the United States is contrary to 37 U.S.C. 402(b).

"'(g) Upon discharge at Randolph Air Force Base, Tex., on April 30, 1968, he was paid $94.38 mileage allowance for travel to Minot Air Force Base, N. Dak., a distance of 1,573 miles, at the rate of 6 cents a mile. However, under the joint travel regulations he was entitled to mileage allowance totaling $51.72 for travel to his home of record, Bessemer, Ala., or place of original enlistment, Atlanta, Ga., a distance of 862 miles from Randolph Air Force Base. This resulted in an overpayment of $42.66.'

"After the introduction of this bill and, in the course of preparing its report to the committee, the Air Force made a reaudit of Mr. Stephenson's pay account. This audit showed that during his tour of duty from February 1, 1961, through April 30, 1964, he earned 97 days of leave. However, during this period he used 109 days of leave which was 12 days more than he had earned. A new leave record which was prepared following his discharge and reenlistment on May 1, 1964, did not carry forward the record of this excess leave and consequently he did not repay it. This leave was computed at $111.08 thus increasing his total indebtedness to $447.59.

"In concluding that it had no objection to enactment of the bill the Air Force found that there was no indication of a lack of good faith on Mr. Stephenson's part. It further found that the overpayment resulted from administrative errors. In this connection the Air Force stated:

"'Mr. Stephenson's indebtedness resulted from administrative errors. There is no indication of lack of good faith on his part or on the part of Air Force personnel. In view of the circumstances the Department of the Air Force would have no objection to enactment of H.R. 10704.'

"The committee finds that the facts and circumstances of this case are such that legislative relief should be extended to Mr. Stephenson. Additional information concerning this liability asserted after discharge in this way has imposed a difficult and unfair burden on this former enlisted man. After his discharge in 1968, Mr. Stephenson was employed as an apprentice carpenter. Presently he is employed as a laborer by the United States Steel Co.

"The Air Force has found that this individual in good faith received the amounts which were subsequently disallowed. Under these particular circumstances the most equitable resolution of the matter is to grant the relief provided in this bill. Accordingly, it is recommended that the bill, amended to provide relief in the amount of $447.59, as

recommended by the Air Force, be favorably considered."

In agreement with the views of the House, the committee recommends the bill favorably.

MAURICE MARCHBANKS

The Senate proceeded to consider the bill (S. 3885) for the relief of Maurice Marchbanks, which had been reported from the Committee on the Judiciary with amendments.

On page 1, after line 2, strike out "That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks the sum of $667.20 in full settlement of all his claims against the United States for the amount he paid in special expenses incurred in a "That Maurice Marchbanks is relieved of all liability to repay to the United States the sum of $667.20, the amount he was reimbursed by the United States in special expenses incurred in a "; on page 2, line 3, after the word "reimburse.", insert "In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full shall be given for the respective amounts for which liability is relieved by this Act."; after line 6, insert a new section, as follows:

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks, the sum of any amounts received or withheld from him with respect to the indebtedness for which liability is relieved by this Act.

At the beginning of line 12, change the section number from "2" to "3"; and at the beginning of line 13, strike out the word "first" and insert "second"; so as to make the bill read:

That Maurice Marchbanks is relieved of all liability to repay to the United States the sum of $667.20, the amount he was reimbursed by the United States in special expenses incurred in a move from the State of Texas to the State of Arizona for the purpose of employment with the U.S. Forest Service which expenses the U.S. Forest Service specifically promised to pay and/or reimburse. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the respective amounts for which liability is relieved by this Act.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Maurice Marchbanks, the sum of any amounts received or withheld from him with respect to the indebtedness for which liability is relieved by this Act.

SEC. 3. No part of the amount appropriated in the second section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

The amendments were agreed to.

The bill was ordered to be engrossed for 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. 91–1455), explaining the purposes of the measure.

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

PURPOSE OF AMENDMENTS

The purpose of the amendments is to carry out recommendations of the Department of Agriculture.

PURPOSE

The purpose of the bill as amended is to authorize and direct the Secretary of the Treasury to pay Mr. Maurice Marchbanks $667.20 in full settlement of his claims against the United States relative to reimbursement promised by the Forest Service for expenses incurred in a move from Texas to Arizona for employment with the Forest Service.

STATEMENT

The bill as amended bears a favorable recommendation of the Department of Agriculture.

The facts of the case as contained in the departmental report are as follows:

"Since the Forest Service did, in fact, erroneously advise Mr. Marchbanks in writing that travel and moving costs involved in reporting to his first duty station would be reimbursed and since Mr. Marchbanks bases his acceptance of the offer of employment on this fact—this Department recommends that S. 3885 be enacted if amended as hereinafter set out.

"The Heber Civilian Conservation Center is located near Heber, Ariz., and is operated under the supervision of the Forest Service in this Department. In the spring of 1967 there was need to fill a position of education and guidance officer, GS–12, at the Center. Candidates were sought and through administrative oversight erroneously advised that certain travel and transportation expenses to their first duty station would be paid by the Government. Mr. Maurice Marchbanks of Canadian, Tex., indicated an interest in the position.

"During the discussion that followed, it was determined that Mr. Marchbanks did not at that time meet the civil service requirements for initial employment at the GS–1710–12 level. He was selected for a GS–1710–11, principal teacher position for which he was qualified. He was again erroneously advised that the Government would bear the cost of travel and transportation expenses. Mr. Marchbanks has stated that he based his final determination to accept the offered position on these offers. Mr. Marchbanks is still employed by the Forest Service.

"Mr. Marchbanks was actually reimbursed the cost of travel and moving expenses in the amount of $667.20. The erroneous payment was discovered in a subsequent review of payments. Upon our request for repayment, Mr. Marchbanks asked that the case be presented to the Comptroller General of the United States requesting that collection action be waived. The Comptroller General denied the request, and also declined to recommend to the Congress that the claim be considered under the act of April 10, 1928 (31 U.S.C. 236). Pending resolution of measures for the relief of Mr. Marchbanks, we do not plan to instigate repayment procedures in this case. Therefore, we recommend that S. 3885 be amended to provide for relief from the repayment liability instead of payment to Mr. Marchbanks, and to make other technical amendments."

In agreement with the views of the Department, the committee recommends the bill favorably as amended.

BILL PASSED OVER

The bill (S. 4583) to authorize Secret Service protection of visiting heads of foreign states or governments, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

DEFINITION OF "METAL-BEARING ORES"

The bill (H.R. 6049) to amend the definition of "metal bearing ores" in the Tariff Schedules of the United States 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. 91–1465), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 6049 as reported by your committee is to amend the definition of the term "metal-bearing ores" in the Tariff Schedules of the United States in order that imports of manganese ores which have been roasted and sintered will be classified as manganese ore under item 601.27 of the tariff schedules.

GENERAL STATEMENT

Under headnote 2 of schedule 6 of the Tariff Schedules of the United States, only managanese ore which is crude or which has been concentrated by crushing, floatation, washing, or by other physical or mechanical separation not involving chemical change is considered to be a metal bearing ore. Such manganese ores and concentrates are dutiable under item 601.27 of the Tariff Schedules and are temporarily free of duty.

The committee has been informed by the Treasury Department that imports of manganese ore which has been concentrated by roasting or sintering (generally involving chemical change) are considered to be dutiable as "other metal bearing *materials*" under item 603.70 of the tariff schedules at the rate of duty of 10 percent ad valorem.

Ores of iron, lead, copper, and zinc which have been concentrated by roasting or sintering are defined and are dutiable as "metal bearing ores." Thus, the bill would provide for the same type of tariff treatment for manganese ores which have been concentrated by roasting or sintering as now is provided for such imported ores of iron, lead, copper, and zinc.

Enactment of H.R. 6049 would make clear that imports of roasted or sintered manganese ores should no longer be classified under tariff item 603.70 at 10 percent ad valorem, but under tariff item 601.27. The rate of duty provided for under item 601.27 is 0.17 cents per pound of manganese content which is scheduled to be reduced further to 0.12 cents per pound on January 1, 1972, as a result of the Kennedy round. As indicated above, however, the duty on imports of manganese ore under tariff item 601.27 is temporarily suspended.

There is little domestic production of manganese ore and imports account for over 95 percent of total new supply in this country. At this time, imports of roasted or sintered manganese ore are believed to be very small. It is understood that deposits of manganese carbonate ore which requires roasting or sintering are being developed in Mexico. These deposits provide the primary

basis for the current concern with the dutiable status of roasted or sintered manganese ore.

The committee received favorable reports from the Departments of Interior, Commerce, Labor, Treasury, and State. An informative report was received from the U.S. Tariff Commission. No objection to the bill was brought to the attention of the committee.

FREE ENTRY OF PEAL OF EIGHT BELLS AND FITTINGS FOR USE OF SMITH COLLEGE, NORTHAMPTON, MASS.

The bill (H.R. 6854) to provide for the free entry of a peal of eight bells and fittings for use of Smith College, Northampton, Mass., 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. 91–1466), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 6854 is to provide for the duty-free entry of a peal of eight bells and fittings for the use of Smith College, Northampton, Mass.

GENERAL STATEMENT

H.R. 6854 would authorize and direct the Secretary of the Treasury to admit free of duty a peal of eight bells and fittings for the use of Smith College, Northampton, Mass. The bill further provides that if liquidation of the entry has become final, such entry shall be reliquidated and the appropriate refund of duty made.

The committee is informed that the peal of eight bells for the use of Smith College was entered and was subject to a duty of 9 percent ad valorem under item 725.34 of the tariff schedules. The committee is also informed that the peal of eight bells desired by Smith College was not available from domestic producers. In favorably considering similar bills in the past, the committee has been informed by appropriate agencies of Government, including the Tariff Commission, that such bells are not produced in the United States.

AMENDING THE TARIFF SCHEDULES FOR REIMPORTATION

The bill (H.R. 9183) to amend Tariff Schedules of the United States to provide that imported articles which are exported and thereafter reimported to the United States for failure to meet sample or specifications shall, in certain instances, be entered free of duty upon such reimportation 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. 91–1467), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 9183, is to provide that imported articles on which the duty has been paid and which are subsequently exported, but reimported for failure to meet sample of specifications abroad shall be accorded duty-free treatment in certain instances.

GENERAL STATEMENT

Insofar as articles exported and returned are concerned the Tariff Schedules of the United States provide that in the absence of a specific provision to the contrary, the tariff status of an article is not affected by the fact it was previously imported into the customs territory of the United States and cleared through customs whether or not duty was paid upon such previous importation.

There is no specific provision for imported articles, on which duties have been paid, which are subsequently exported, and returned to the United States due to failure of the articles to meet sample or specifications in the foreign country. The committee was informed that in at least one instance a shipment of articles was imported and the normal duty was paid. Thereafter the articles were sold and exported to a customer in a foreign country, who subsequently rejected them for the reason that they did not conform to specification. Upon return to the United States, the articles were again subject to duty under U.S. tariff law. The committee is of the opinion that the law should be changed, as proposed in H.R. 9183, to prevent a recurrence of double liability for duty payment on imported articles under similar circumstances.

For this purpose, the bill would insert a new duty-free tariff classification provision, item 801.10, in schedule 8 of the Tariff Schedules of the United States. This provision would permit duty-free entry for articles, previously imported, with respect to which the duty was paid upon such previous importation, under certain conditions. Such articles could be entered free of duty if: (1) exported within 3 years after the date of such previous importation; (2) reimported without having been advanced in value or improved in condition by any process of manufacture or other means while abroad; (3) reimported for the reason that such articles do not conform to sample or specifications, and (4) reimported by or for the account of persons who imported them into and exported them from, the United States.

With respect to condition (2) above, the bill as originally introduced would not have permitted the duty-free treatment if the articles had been advanced in value or improved in condition "at any time after such previous importation and before reimportation." At the suggestion of the Department of Commerce, the committee amended the bill so as to disallow duty-free treatment if the articles were advanced in value or improved in condition "while abroad." This would permit such duty-free treatment if advancement in value of improvement in condition of the articles takes place in the United States prior to exportation of the articles.

The committee also provided with respect to the effective date that the new provision would apply only to articles imported after the date of enactment which had not been previously imported before such date.

Favorable reports on H.R. 9183 were received from the Departments of Commerce, State, Treasury, Labor, and Agriculture, and the Office of Special Representative for Trade Negotiations. An informative report was received from the U.S. Tariff Commission.

BILL PASSED OVER

The bill (H.R. 10517) to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes, was announced as next in order.

Mr. MANSFIELD. Over.

The PRESIDING OFFICER. The bill will be passed over.

AGRICULTURAL CREDIT INSURANCE FUND LOANS

The bill (H.R. 15979) to provide that the interest on certain insured loans sold out of the Agricultural Credit Insurance Fund shall be included in gross income 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. 91–1469), explaining the purposes of the measure.

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

I. SUMMARY

The Consolidated Farmers Home Administration Act of 1961 authorizes the Farmers Home Administration to make loans both to local governmental units and to private bodies for such purposes as conservation, land use, water, etc., and to resell this debt to private parties as federally insured loans. The Internal Revenue Service has ruled that in those cases where the security originates with a local governmental unit the interest or other income paid on it continues to be exempt from Federal tax even after it is resold as a loan insured by the Federal Government. Because the Federal Government has concluded that the exemption of interest on these loans is costly and has inequitable results, it in recent years has been reluctant to make and then resell these loans on an insured basis to provide credit assistance to local governmental units. H.R. 15979 overcomes this problem by providing (in an amendment to the Consolidated Farmers Home Administration Act) that interest or other income paid to an insured holder on an insured loan sold out of the Agricultural Credit Insurance Fund is for income tax purposes to be included in gross income of the recipient of the interest. This is to be effective with respect to sales of insured loans by the Federal Government after the date of enactment of this bill.

This bill is favored by the Treasury Department and the Department of Agriculture.

II. GENERAL STATEMENT

Under present law (sec. 306(a)(1) of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926(a)(1))), the Secretary of Agriculture is authorized to make conservation, land use, water, waste disposal, and recreational loans both to governmental units and to private bodies. These loans may be made either directly to the governmental unit or private body or may be made by providing insurance for these loans. Where the insured approach is used, the Farmers Home Administration makes a loan to the unit or body and receives in return a note or bond bearing an interest rate which by law cannot exceed 5 per centum. The FHA then resells the note to private lenders, insuring the bond's principal and interest, and pays out of its own funds the cost of any differential between the interest rate at which the insured securities are sold and the 5 per centum or lower interest rate specified by the securities which were acquired by FHA.

Direct lending, of course, has an immediate impact, to the full extent of the loan, on Federal budget outlays. Therefore, the volume of loans which could be made directly under the Consolidated Farmers Home Administration Act has been limited. At one time FHA supplemented these direct loans by reselling packages of these loans on an insured basis to private institutional investors. However, it has been held by the Internal Revenue Service that bonds of local governmental units which are acquired by the Farmers Home Administration and then resold on an insured basis continue to be tax exempt in the hand of the lender (Rev. Rul. 58–452). The result of this has been that in

recent years FHA has greatly curtailed its program of insuring and reselling loans to local governmental units. This action was taken because the Federal Government concluded that federally guaranteed tax-exempt obligations involve a needlessly costly and inequitable method of financing. Studies by the Treasury Department and the Bureau of the Budget have indicated that it is costly to the Federal Government to use federally insured tax-exempt obligations to finance loans to local governmental units. The studies indicate that while the tax exemption makes it possible to resell the insured loans at a lower interest rate than would otherwise be possible, the loss of tax revenue resulting from the exemption more than offsets the benefits of the lower interest payments.

Additionally, it was concluded that the sale of bonds which are both tax exempt and insured by the Federal Government would give these bonds a competitive advantage over both State and local securities which are tax exempt but not federally insured, and also Federal securities which are subject to Federal income tax. As a result, the sale of such bonds could well have increased interest rates on other bonds, particularly those issued by States and localities and hampered their ability to finance other vital public needs.

H.R. 15979 eliminates these problems by providing that interest on federally insured loans sold out of the Agricultural Credit Insurance Fund after the date of enactment of the bill is for tax purposes to be included in the gross income of the holder of the debt. The interest on these loans is to be taxable for the following reasons. First, the purchase of the bond from the FHA is viewed to be the equivalent of a contract between the FHA and the bond purchaser to report the interest for Federal income tax purposes. Second, the interest on these loans is interest paid by a Federal agency and not by a State or local governmental unit (even though a portion of the interest payment is, in effect, reimbursed by interest received by the agency on tax-exempt municipal bonds). In view of these factors this does not represent a precedent for the Federal taxation of interest on State or local bonds.

The effect of this action is to make it practical to use federally insured loans to finance credit assistance to local governmental units for the purposes specified in the Consolidated Farmers Home Administration Act. This will be beneficial to the local governments since it should increase substantially the volume of these local governmental loans which the Federal Government will be able to acquire and to resell on an insured basis. At the same time the bill also will reduce the need for appropriations for direct Federal loans for the purposes specified in the Consolidated Farmers Home Administration Act since greater dependence can be placed on loans which are resold to prviate holders on an insured basis.

The proposed legislation will not increase interest rates to the local communities involved in the federally insured loans since these communities can continue to obtain loans at present low interest rates of not over 5 percent, which are below the current market rates on good quality, long-term, tax-exempt bonds. Moreover, the bill does not in any way interfere with the right of local governments to issue tax-exempt obligations.

BILL PASSED OVER

The bill (H.R. 16506), to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations, was announced as next in order.

Mr. MANSFIELD. Over, Mr. President.

The PRESIDING OFFICER. The bill will be passed over.

SUSPENSION OF DUTY ON ELECTRODES FOR USE IN PRODUCING ALUMINUM

The bill (H.R. 16940) to extend until December 31, 1972, the suspension of duty on electrodes for use in producing aluminum 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. 91–1471), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 16940 is to continue until the close of December 31, 1972, the suspension of duties on electrodes imported for use in producing aluminum.

GENERAL STATEMENT

Under the permanent provisions of the Tariff Schedules of the United States, electrodes of the kind covered by the bill are currently dutiable under item 517.61 at 8½ percent ad valorem, the third stage of a five-stage reduction from 12½ to 6 percent ad valorem agreed to in the Kennedy round. However, the duty on electrodes imported for use in producing aluminum was suspended from October 7, 1965, under Public Law 89–241, until July 15, 1966, was further suspended by Public Law 89–434 until July 15, 1968; to July 15, 1969, by Public Law 90–571; and to the close of December 31, 1970 by Public Law 91–26.

The committee is informed that the electrodes of the type covered by the bill usually are manufactured by aluminum companies themselves at the site where they are to be used in the electrolysis of alumina into aluminum. These electrodes generally of carbon or graphite are consumed in great quantities in the electrolysis process. A number of small aluminum plants have been importing electrodes due to an insufficient volume of aluminum production to permit efficient manufacture of electrodes at their plants, and due to the difficulty of purchasing such electrodes commercially from domestic producers.

The committee has received no information which would indicate opposition to the legislation, and the executive department had no objection to its enactment.

The committee believes that an extension of the suspension of duty on electrodes imported for use in producing aluminum for a 2-year period as provided in H.R. 16940 is warranted.

REMOVAL OF PROHIBITIONS AGAINST IMPORTING, TRANSPORTING, AND MAILING ARTICLES FOR PREVENTING CONCEPTION

The Senate proceeded to consider the bill (H.R. 4605) to amend the Tariff Act of 1930 and the United States Code to remove the prohibitions against importing, transporting, and mailing in the United States mails, articles for preventing conception, which had been reported from the Committee on Finance with amendments on page 2, after line 7, strike out:

SEC. 5. (a) Section 4001 of title 39 of the United States Code, relating to nonmailable matter, is amended by adding at the end thereof the following new subsection:

"(d)(1) Every article or thing which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postmaster General directs.

"(2) Every advertisement of any article or thing which is designed, adapted, or intended for preventing conception is nonmailable, matter, shall not be carried or delivered by mail, and shall be disposed of as the Postmaster General directs if the advertisement is unsolicited, unless the advertisement—

"(A) is mailed to a manufacturer of such articles or things, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

"(B) accompanies in the same parcel any such article or thing mailed under conditions permitted under paragraph (1) of this subsection.

An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive."

(b) The eighth paragraph of section 1461 of title 18 of the United States Code is amended by inserting "or section 4001(d) of title 39" after "this section".

SEC. 6. The amendments made by this Act shall take effect on the day after the date of the enactment of this Act.

And, in lieu thereof, insert:

SEC. 5. (a) Section 4001 of title 39 of the United States Code, relating to nonmailable matter, is amended by adding at the end thereof the following new subsection:

"(d)(1) Any matter which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postmaster General directs.

"(2) Any unsolicited advertisement of matter which is designed, adapted, or intended for preventing conception is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postmaster General directs unless the advertisement—

"(A) is mailed to a manufacturer of such matter, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

"(B) accompanies in the same parcel any unsolicited sample excepted by paragraph (1) of this subsection.

An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive."

(b) The eighth paragraph of section 1461 of title 18 of the United States Code is amended by inserting "or section 4001(d) of title 39" after "this section".

On page 4, after line 21, insert a new section as follows:

SEC. 6. Effective on the date that the Board of Governors of the United States Postal Service establishes as the effective date for section 3001 of title 39 of the United States Code, as enacted by the Postal Reorganization Act—

(1) such section 3001 is amended—

(A) by redesignating subsection (e) as (f); and

(B) by inserting after subsection (d) the following new subsection:

"(e) (1) Any matter which is unsolicited by the addressee and which is designed, adapted, or intended for preventing conception (except unsolicited samples thereof mailed to a manufacturer thereof, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(2) Any unsolicited advertisement of matter which is designed, adapted, or intended for preventing conception is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs unless the advertisement—

"(A) is mailed to a manufacturer of such matter, a dealer therein, a licensed physician or surgeon, or a nurse, pharmacist, druggist, hospital, or clinic; or

"(B) accompanies in the same parcel any unsolicited sample excepted by paragraph (1) of this subsection. An advertisement shall not be deemed to be unsolicited for the purposes of this paragraph if it is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive.";

(2) section 4001(d) of title 18 of the United States Code, as added by section 5(a) of this Act, is repealed; and

(3) the eighth paragraph of section 1461 of title 18 of the United States Code, as amended by section 5(b) of this Act, is amended by striking out "4001(d)" and inserting in lieu thereof "3001(e)".

And on page 6, after line 10, insert a new section, as follows:

SEC. 7. The amendments made by this Act (other than by section 6) shall take effect on the day after the date of the enactment of this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was 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. 91-1472), explaining the purposes of the measure.

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

PURPOSE

The purpose of H.R. 4605, is to remove the prohibitions against importing, transporting, and mailing in the U.S. mails articles for preventing conception.

GENERAL STATEMENT

Existing statutes completely prohibit the importation, interstate transportation, and mailing of contraceptive materials, or the mailing of advertisement or information concerning how or where such contraceptives may be obtained or how conception may be prevented. H.R. 4605 would amend or repeal these prohibitions for the most part by deleting references to articles "for the prevention of conception," or similar language, from provisions of law which cover articles the importation, transportation or mailing of which has been considered not to be in the public interest.

The first section of H.R. 4605 would amend section 305(a) of the Tariff Act of 1930 which prohibits the importation of "obscene or immoral" articles by removing the prohibition against importing articles for the prevention of conception. Section 2 of the bill would amend section 552 of title 18 of the United States Code by removing the prohibition against U.S. officers aiding in the importation of contraceptive devices and articles.

Sections 3 and 4 of the bill would amend sections 1461 and 1462 of title 18 of the United States Code, respectively, by excluding contraceptive materials from the obscene and crime-inciting materials, the importing, transporting, mailing, and advertising of which are subject to criminal penalties. However, as amended by section 5(b) of the bill, section 1461 of title 18 would be amended so that criminal sections would continue to apply to mailings of advertisements of contraceptive matter which would be considered, under the bill, as nonmailable when the advertising is not solicited by the addressee.

Section 5 of H.R. 4605 would amend section 4001 of title 39 of the United States Code so as to limit the unsolicited mailing of articles for preventing conception to unsolicited samples among certain authorized parties (manufacturers, dealers, and licensed physicians, nurses, pharmacists, druggists, hospitals, and clinics). The bill would continue the prohibition against the mailing of advertisement with regard to articles for preventing conception if unsolicited or if not mailed to a licensed person such as those indicated above. Section 6 makes similar amendments to section 3001 of title 39 (as revised and reenacted by the Postal Reorganization Act) to become effective when such section takes effect under the provisions of the Postal Reorganization Act.

Your committee received favorable reports on H.R. 4605 from the Departments of Health, Education, and Welfare, Commerce, State, Labor, Treasury, and Post Office. Informative reports were received from the U.S. Tariff Commission and the Department of Justice.

RATE OF DUTY ON STETHOSCOPE PARTS

The Senate proceeded to consider the bill (H.R. 7311) to amend item 709.10 of the Tariff Schedules of the United States to provide that the rate of duty on parts of stethoscopes shall be the same as the rate on stethoscopes, which had been reported from the Committee on Finance with an amendment at the top of page 2 srike out:

(c) The rates of duty in rate column numbered 1 for parts of stethoscopes under item 709.10 of the Tariff Schedules of the United States, as amended by subsection (a), shall be treated as not having the status of a statutory provision enacted by the Congress, but as having been proclaimed by the President as being required or appropriate to carry out foreign trade agreements to which the United States is a party.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was 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. 91-1473), explaining the purposes of the measure.

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

EXPLANATION OF COMMITTEE AMENDMENT

The committee added a technical amendment which would delete subsection (c) of the House bill. This subsection was added by the House committee to make clear the tariff concession status on parts of stethoscopes reclassified by the bill, will be treated the same as stethoscopes for purposes of title III of the Trade Expansion Act of 1962. The committee amendment was suggested by the Department of State on the grounds that the reclassification made by the bill would, without any specific provision to this effect, subject parts of stethoscopes to the same staged duty reductions agreed to for stethoscopes in the Kennedy round.

PURPOSE

The purpose of H.R. 7311, as amended, is to provide that the rate of duty on parts of stethoscopes shall be the same as the rate of duty on stethoscopes. Stethoscopes are presently dutiable under tariff schedule item No. 709.10 at 15 percent ad valorem, the second stage of a five-stage duty reduction from 19 percent to 9.5 percent ad valorem pursuant to the Kennedy round of trade negotiations. Parts of stethoscopes are presently classified under item 709.27 at 28.5 percent ad valorem the second stage of a five-stage reduction from 36 percent to 18 percent pursuant to the Kennedy round agreement.

H.R. 7311, as amended, is similar to H.R. 6909 of the 90th Congress, which was unanimously approved by the House on September 30, 1968, but was not acted on by the Senate.

GENERAL STATEMENT

The existing differential between the dutiable status of stethoscopes and parts of stethoscopes was created by the Technical Amendments Act of 1965 under which the rate of duty on stethoscopes of 36 percent was reduced to 19 percent ad valorem in conformity with a U.S. Customs Court decision. However, the same provision was not made for parts of stethoscopes in the act of 1965, and for this reason, parts of stethoscopes have continued to be dutiable at 36 percent ad valorem until the rate was reduced to 32 percent and to 28.5 percent ad valorem subsequently, pursuant to the Kennedy round agreement.

The bill would provide the same rates of duty on parts of stethoscopes as would be applicable to stethoscopes by adding "and parts of stethoscopes" to the item description of item 709.10 of the Tariff Schedules. As a result, parts of stethoscopes will be subject to the same staged duty reductions agreed to for stethoscopes in the Kennedy round, noted above.

In the change in classification made for stethoscopes in the Technical Amendments Act of 1965, import entries of stethoscopes made after August 30, 1963, and on or before the date of enactment of that act were permitted to be liquidated or reliquidated at the lower rate of duty upon a request therefor filed with the customs officer concerned on or before 120 days after enactment. A similar provision for parts of stethoscopes was contained in H.R. 7311 as introduced. Due to the lack of information indicating that a retroactive provision for parts of stethoscopes is warranted and due to the complexities of determining the appropriate rate of duty in a situation such as this in which two separate stagings of duty reductions are involved, your committee deleted this retroactive provision from the bill.

Your committee also amended the bill to provide that the dutiable status of parts of stethoscopes, that is, identical to that of stethoscopes, shall be considered as having been proclaimed by the President pursuant to his trade agreement authority. The purpose of this amendment is to make clear the tariff concession status of parts of stethoscopes in relation to the various provisions of trade agreement law, including the trade adjustment provisions of title III of the Trade Expansion Act of 1962.

Favorable comments on this legislation have been received from the Departments of State, the Treasury, Labor, and Commerce.

EXEMPTING SHRIMP VESSELS FROM DUTY IMPOSED ON REPAIRS MADE AND PARTS AND EQUIPMENT PURCHASED FOR U.S. VESSELS IN FOREIGN COUNTRIES

The Senate proceeded to consider the bill (H.R. 16745) to exempt shrimp vessels from the duty imposed on repairs made to, and repair parts and equipments purchased for, United States vessels in foreign countries, and for other purposes, which had been reported from the Committee on Finance with an amendment on page 1, after the enacting clause, strike out:

That section 3114 of the Revised Statutes of the United States (19 U.S.C. 257) is amended by adding before the semicolon in the first sentence of that section the following: ", except that, in the case of any vessel primarily used for the catching of shrimp, such duty shall apply only with respect to so much of such cost as relates to fish nets and netting".

And in lieu thereof insert:

That section 466 of the Tariff Act of 1930 is amended to read as follows:

"SEC. 466. EQUIPMENT AND REPAIRS OF VESSELS

"(a) The equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country; and if the owner or master of such vessel shall willfully and knowingly neglect or fail to report, make entry, and pay duties as herein required, such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited. For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipments or any part thereof, or the making of repairs, in a foreign country, shall not be included in the cost of such equipment or part thereof, or of such repairs.

"(b) If the owner or master of such vessel furnishes good and sufficient evidence that—

"(1) such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination;

"(2) such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew of such vessel; or

"(3) such equipments, or parts thereof, or materials, or labor, were used as dunnage for cargo, or for the packing or showing thereof, or in the erection of temporary bulkheads or other similar devices for the control of bulk cargo, or in the preparation (without permanent repair or alteration) of tanks for the carriage of liquid cargo;

then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments or parts thereof or materials and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this section, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited.

"(c) In the case of any vessel designed and used primarily for purposes other than transporting passengers or property in the foreign or coasting trade which arrives in a port of the United States two years or more after its last departure from a port of the United States, the duties imposed by this section shall apply only with respect to (1) fish nets and netting, and (2) other equipments, and parts thereof, and repair parts and materials purchased, or repairs made, during the first six months after the last departure of such vessel from a port of the United States."

On page 4, line 16, after the word "to", strike out "articles entered" and insert "entries made in connection with arrivals of vessels"; in line 21, after the word "Act,", strike out the entry of any article" and insert "any entry in connection with the arrival of a vessel used primarily for the catching of shrimp—"; and on page 5, after line 7, insert a new section, as follows:

SEC. 3. Effective with respect to entries made in connection with arrivals of vessels on or after the date of the enactment of this Act (or treated under section 2 as made on the day after such date), sections 3114 and 3115 of the Revised Statutes of the United States (19 U.S.C. 257 and 258) are repealed.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to limit, in the case of certain special service vessels, the application of the duties imposed on equipments and repair parts purchased for, and repairs made to, United States vessels in foreign countries."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1474), explaining the purposes of the measure.

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

EXPLANATION OF THE COMMITTEE AMENDMENT

Present law requires the imposition of a 50-percent duty on the value of repairs made on, and equipment purchased for, U.S. vessels engaged in foreign trade, when such repairs or equipment was made or purchased in a foreign country. The House bill would have exempted shrimp vessels from this duty.

The committee agrees with the House as to the desirability of this exemption but feels it should be limited to those instances where the vessel is abroad for extended periods of time and is not in need of repairs when it departs from this country.

In addition, the committee agrees with a recommendation of the Treasury Department that the relief from tariffs provided by this bill should be extended to noncargo carrying "special purpose" vessels.

Accordingly, a committee amendment would limit the duty-free treatment to repairs made after the first 6 months of any voyage in which the vessel operated in international or foreign waters for a period of 2 years or more, and would extend this duty-free treatment to any "special service" vessel that is not used primarily to carry passengers or cargo, and that has operated in international or foreign waters for a period of 2 years or more without returning to the United States during such period.

This amendment is intended to relieve from a 50-percent ad valorem tax on the value of repairs made, and equipment purchased, in foreign countries, those American shrimp and other vessels which must be away from U.S. ports for extended periods of time and which during the course of that time must make normal repairs if they are to remain competitive with their foreign counterparts. The amendment would not adversely affect American shipyards or American labor since these vessels would have to be in foreign or international waters for 2 years or more in order to be relieved from payment of the duty, and could not in any event be repaired in U.S. shipyards during their voyages. Besides shrimp boats, the amendment would apply only to "special service vessels", such as barges, oil drilling vessels, oceanographic vessels, which, like shrimp boats, in the course of their operations, cannot return to U.S. ports to secure the necessary repairs, without great inconvenience.

GENERAL STATEMENT

Under section 3114 of the Revised Statutes of the United States a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, is required to pay an ad valorem duty of 50 percent on the cost of repairs made to, and equipment purchased for, such vessels in a foreign country. Vessels licensed solely for the purpose of engaging in the fisheries may not engage in foreign or coasting trade.

However, if during a fishing voyage a vessel intends to touch and trade in a foreign port, it is required that a permit to touch and trade be obtained prior to departure of the vessel. Under such circumstances, the Department of the Treasury considers that such a vessel is documented to engage in foreign trade within the meaning of section 3114 of the Revised Statutes of the United States during the particular voyage.

The committee is informed that the imposition of the 50-percent duty on the cost of repairs made to, and equipment purchased fishery is particularly onerous.

The U.S. vessels which are engaged in the shrimp fishery off the northeast coast of South America land their catch at any of several South American ports. The catch usually is then transported to the United States as frozen raw headless shrimp. This distant fishery resource has been developed by U.S. companies using U.S. vessels.

It is the practice for shrimp vessels to remain on station for long periods of time (3 to 5 years). During this time, necessary repairs and equipment are obtained in nearby foreign ports, because the long voyage back to the United States would involve a lengthy period of absence from the station on the fishing grounds and comparable loss of income for the owners, operators, and crew of the shrimp vessel. Under these circumstances, one of the purposes of section 3114 of the Revised Statutes of the United States to encourage and support American repair facilities is not being served. At the same time, a penalty is being imposed on operations of U.S. shrimp fishing vessels.

The committee believes that an exemption should be made for U.S. vessels primarily used for the catching of shrimp and other "special service" vessels which also must stay away from U.S. ports for extended periods of time, from the 50-percent ad valorem duty imposed under section 3114 of the Revised Statutes of the United States.

H.R. 16745, as reported, provides for such an exemption but only if such vessels remain away from U.S. ports for a period of 2 years or

more. Furthermore, the relief provided by the committee amendment would not apply to repairs made during the first 6 months of any voyage. However, the bill does not exempt a vessel from the liability to make entry on its first arrival in the U.S. port following repairs or purchases made abroad. The committee has been informed that the Bureau of Customs will continue to check the logs of such vessels, as it now inspects the logs of all vessels in such circumstances, to determine equipment purchases or repairs made abroad, and the entrant will have the burden of establishing his right to the exemption with respect to the equipment or repairs in question. Inspection of the ship's log will remain the major deterrent to evasion of this provision of law, and the failure to make a proper declaration will expose violators to criminal and civil penalties.

The committee bill provides that the exemption shall not apply to the cost of fish nets and netting.

Favorable reports on the bill and similar bills pending before the committee were received from the Departments of Interior, Commerce, Labor, State, Treasury, and Transportation. An informative report was received from the U.S. Tariff Commission.

Under the second section H.R. 16745, the amendment to section 3114 of the Revised Statutes is to apply to the arrival of vessels on or after the date of enactment of the bill. In addition, the bill as passed by the House and approved by the Committee would also apply to arrivals of shrimp vessels made after January 1, 1969, and before such date of enactment, subject to appropriate request to the Customs Officer concerned made on or before the 90th day after the date of enactment of the bill for the liquidation or reliquidation of an entry with respect to which there would have been no duty if the first section of H.R. 16745 had been in effect at the time of entry.

PARTIAL EXEMPTION FROM DUTY FOR AIRCRAFT MANUFACTURED OR PRODUCED IN THE UNITED STATES WITH USE OF FOREIGN COMPONENTS IMPORTED UNDER TEMPORARY IMPORTATION BOND

The Senate proceeded to consider the bill (H.R. 17068) to amend the Tariff Schedules of the United States to provide for a partial exemption from duty for aircraft manufactured or produced in the United States with the use of foreign components imported under temporary importation bond, which had been reported from the Committee on Finance with an amendment on page 4, after line 7, insert a new section, as follows:

SEC. 3. (a) Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by redesignating subsections (h), (i), and (j) as (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) Upon the exportation of jet aircraft engines that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than $100."

(b) The amendments made by subsection (a) shall apply with respect to articles exported on or after the date of the enactment of this Act.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to amend the Tariff Schedules of the United States to provide for a partial exemption from duty for aircraft manufactured or produced in the United States with the use of foreign components imported under temporary importation bond, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1475), explaining the purposes of the measure.

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

EXPLANATION OF COMMITTEE AMENDMENT

The committee amendment would provide that upon the exportation of jet aircraft engines that have been overhauled or rebuilt in the United States with the use of imported merchandise, there shall be refunded the duties which have been paid on the imported merchandise. The amendment is intended to preserve the competitive position of the U.S. aircraft engine overhaul industry. The amendment is prospective and no past refunds are involved.

PURPOSE

The purpose of H.R. 17068, as reported by the committee, is to amend the Tariff Schedules of the United States (TSUS) to provide for a partial exemption from duty thereunder for returned American aircraft which were manufactured in the United States with the use of foreign articles which had been admitted duty free under bond. Under the bill as reported, the returned American aircraft would, in general, be subject to a duty equal to the amount of duty which would have been payable on the foreign articles had they not been entered free of duty under bond.

GENERAL STATEMENT

Under present customs practice articles produced in the United States with the use of foreign articles imported under bond are excluded from entry under the provisions of item 804.00 as "American goods returned." However, articles produced in the United States with the use of foreign articles and exported with the benefit of drawback may be imported under item 804.00 as "American goods returned" upon repayment of the drawback.

The committee is informed that in the manufacture of aircraft in the United States, it is fairly common practice to use some materials from abroad. Export sales of aircraft produced in the United States are significant, and normally, the duty paid on the foreign articles used in the manufacture of such aircraft is subject to the drawback procedure under which 99 percent of the duty is refunded upon export of the completed aircraft. In some instances, foreign articles for aircraft are entered under tariff item 864.05 free of duty under bond. Such temporary duty-free entry arrangement is apparently preferred by some manufacturers since no large amount of capital is committed to duty payment for the period between the original entry of the foreign component and the drawback of the duty upon exportation of the aircraft.

Over the years both provisions, i.e., drawback and temporary importation bond, have been used with respect to eliminating the cost of U.S. duty on foreign articles used in the domestic manufacture of aircraft which are subsequently sold abroad. Competition in the sales of new aircraft in world markets is rising. Your committee is informed that very often the "trade-in" allowance for old aircraft is an important factor in obtaining contracts for sales of new aircraft abroad. Under these circumstances the dutiable status of the old aircraft being "traded in" and returned to the United States also becomes important.

The committee is of the opinion that in view of the growing importance of the "trade-in" of aircraft to sales of aircraft abroad, it is important to provide similar customs treatment to aircraft produced in the United States which are sold abroad and returned whether the drawback or temporary importation bond procedure was used with respect to foreign components. H.R. 17068 would provide such customs treatment for aircraft. It would also make certain technical amendments in the provisions of item 804.00 for the sake of clarity. These changes reflect existing customs practices.

FILING OF CERTAIN MANUFACTURERS CLAIMS FOR FLOOR STOCKS REFUNDS UNDER THE EXCISE TAX REDUCTION ACT

The Senate proceeded to consider the bill (H.R. 17473) to extend the period for filing certain manufacturers claims for floor stocks refunds under section 209(b) of the Excise Tax Reduction Act of 1965, which had been reported from the Committee on Finance with an amendment on page 2, after line 2, insert a new section, as follows:

SEC. 2. Section 231(d)(1) of the Tax Reform Act of 1969 is amended by striking out "July 1, 1970" and inserting in lieu thereof "January 1, 1971".

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill, insert the following:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for purposes of the tax imposed by section 2001 of the Internal Revenue Code of 1954 (relating to the estate tax), the value of the taxable estate of Martha W. Brice, who died on November 2, 1969, shall be determined by deducting from the value of the gross estate of the said Martha W. Brice (in addition to any other deductions and exemptions allowed by part IV of subchapter A of chapter II of such Code) an amount equal to any amounts transferred, prior to the time prescribed by law (including any extensions thereof) for the filing of an estate tax return for such estate, from the proceeds of such estate to a charitable use specified by item III of the will of the said Martha W. Brice, executed on July 3, 1969."

Mr. HOLLINGS. Mr. President, I should like to make a brief statement at this point. The substance of this amendment was considered by the Committee on Finance. A letter received by my colleague (Mr. THURMOND) from the Secretary of the Treasury states they have no opposition to the enactment of this bill.

The amendment I have introduced with my colleague Senator THURMOND would enable the University of South Carolina to receive a gift of approximately $5 million, which would be the largest single donation ever to be received

by that school. The gift would be made pursuant to the will of Martha W. Brice of Sumter, S.C. who died November 2, 1969. The will, unfortunately, was improperly drawn and due to a technicality in the Federal estate tax regulation the executors of the estate are prohibited from fully carrying out the wishes of the testatrix.

By the language of the will it is clear that the true intent of Martha Brice would be served by the passage of this legislation since her intent was to make a generous donation to the University of South Carolina. This intent is circumvented by section 20.2055–2(b) of the estate tax regulations. I agree that our laws should be fair and be uniformly applied but I also believe our system of government should be flexible so that injustice will not result by stoic adherence to our laws. By this legislation we can prevent a grave inequity from resulting.

Such a gift to an institution of higher learning is always welcomed. This fact is especially true today when educational resources are stretching every dollar to meet current demands. The University of South Carolina is no exception to this unfortunate circumstance. Consequently, by the passage of this amendment we not only prevent an injustice but insure that a substantial gift will be directed for capital needs of a university.

So that there will be full disclosure of the situation, I ask unanimous consent to have printed in the RECORD a letter dated March 10, 1970, from Lester H. Wallace, chief, estate and gift tax branch of the Internal Revenue Service, to Sigmund W. Stoudenmire, CPA of Sumter, S.C., and the will of Martha W. Brice.

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

INTERNAL REVENUE SERVICE,
Washington, D.C., March 10, 1970.

In re Estate of Martha W. Brice.
Mr. SIGMUND W. STOUDENMIRE,
Certified Public Accountant,
Sumter, S.C.

DEAR MR. STOUDENMIRE: This is in reply to your letter of January 30, 1970, in which you request a Federal estate tax ruling for the above-captioned decedents' estate. Your request concerns the allowance of a charitable deduction under ITEM III of the decedent's will.

Specifically, you ask (1) whether the charitable deduction can exceed $1,000,000.00 in this case and (2) whether the executors must literally "erect" a building or structure in order to satisfy the requirements for any charitable deduction. In order to answer these questions it is necessary to consider the decedent's will in the context of the state law and the Federal estate tax law.

The decedent's will was executed approximately four months prior to her death. ITEM I of her will directs the prompt payment of her debts. In ITEM II of the will the decedent devises and bequeaths "all of the rest, residue and remainder" of the estate to her nephews, Thomas W. Edwards and Philip L. Edwards, "in equal shares and proportions, in fee simple." She provides for the children of the nephews to take shares by representation in the event that either or both of the nephews should predecease the testatrix. ITEM III of the will provides:

For quite sometime I have desired to provide some suitable memorial in memory of the Williams family and since the death of my husband I now desire to include his name in such memorial. At the present time I am undecided on such memorial and intend in the future to either redraft this Will or make a Codicil thereto, but in the absence of such I direct my two nephews, the beneficiaries of this Will, to erect some suitable building or structure to be known as The Williams-Brice Memorial Building, Wing, Home, or whatever nature the structure might take, and in the absence of any later specific instructions from me, I leave the type and size of such memorial to the discretion of my two nephews, with the direction that the same be for benefit of the Trinity Methodist Church of Sumter, the Epworth Orphange or the University of South Carolina, or divided in any manner between the three.

The cost of said structure or structures shall be paid for out of my estate and I leave to the discretion of my two nephews the amount to be expended for this purpose, but the same shall not be less than the sum of One Million ($1,000,000.00) Dollars.

In Item IV and Item V of the will the decedent provides for her burial and nominates her two nephews as executors.

Section 2055(a) of the Internal Revenue Code of 1954 provides that an estate tax charitable deduction is allowable for "the amount of all bequests, legacies, devises, or transfers" to a trustee if the contribution is to be used by the trustee for charitable purposes. Under this section "the amount" of all bequests, legacies, devises, or transfers includes an interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer or power, if the disclaimer is made before the due date for filing the estate tax return.

It appears from the information you have submitted that a structure or building to be used by either the church, the orphanage, or the university would be considered to be a charitable purpose within the meaning of section 2055(a). The extent of the allowance of the charitable deduction in this case turns on the questions as to (A) what are the duties and powers of the two nephews as trustees and (B) whether any amount in excess of the one million dollar specific bequest can be treated as a disclaimed bequest that will fall into a charitable bequest. Your inquiry about the extent to which the executors may deviate from the direction to erect a building or structure would be answered by a reference to state law. We shall first consider the extent of the allowance of the deduction.

I. ALLOWANCE OF THE CHARITABLE DEDUCTION

A. Fiduciary duties and powers

There is an apparent inconsistency between Item II and Items III and IV of the decedent's will. Item II purports to give the nephews a "fee simple," or unqualified, interest in all of the residue. However, Item III directs the nephews to expend not less than one million dollars out of the estate. Item IV directs the payment of burial expenses. A general rule of will construction is that where two clauses or gifts in a will are inconsistent or irreconcilable, the last prevails. Atkinson, Law of Wills, section 146 (1953). The South Carolina Supreme Court has held that the residuary estate may be made subject to satisfaction of a subsequently described bequest if it is apparent that the testator intended for that bequest to be paid. *Bank of Florence* v. *Gregg*, 24 S. E. 64 (S. C. 1896). Thus, Item III and Item IV may be taken to modify Item II to the extent of the apparent inconsistency.

The net effect of ITEMS II and III is to require the nephews to pay not less than one million dollars to the prescribed charitable use and to give them the choice of diverting the balance of the residuary estate to the charitable use or to their own noncharitable use. Section 20.2055–2(b) of the Estate Tax Regulations states in part:

If the legatee, devisee, donee, or trustee is empowered to divert the property or fund, in whole or in part, to a use or purpose which would have rendered it, to the extent that it is subject to such power, not deductible had it been directly so bequeathed, devised, or given by the decedent, the deduction will be limited to that portion, if any, of the property or fund which is exempt from an exercise of the power. * * *

This limitation upon the charitable deduction has been applied in several court cases.

The will in *Norris* v. *Commissioner*, 134 F. 2d 796 (7th Cir. 1943), directed the trustees to pay a sum "not exceeding" $5,000.00 to a charitable organization. After payment of the initial $5,000.00 sum the trustees were empowered to pay to other charities such additional available sums as the trustees deemed best. The court disallowed the charitable deduction in *Norris*, holding that the legacy to the named charitable organization was "absolute and mandatory, but for no more than one cent." See also *First Trust Company of St. Paul State Bank* v. *Reynolds*, 137 F. 2d 518 (8th Cir. 1943); and *Mississippi Valley Trust Company* v. *Commissioner*, 72 F. 2d 197 (8th Cir. 1934), cert. den. 293 U.S. 604, rehearing den. 293 U.S. 631. These latter two cases also hold that no charitable deduction is allowable for an interest that is conditioned upon the discretion of an individual.

The charitable bequest in the will of Martha Brice is mandatory, but for no more than one million dollars. Her will "directs" the nephews to erect a building or structure with the qualification that the cost "shall" be paid for out of the estate and that the amount expended "shall not" be less than one million dollars. The nephews have the discretion or power to divert the balance of the residuary estate in excess of one million dollars to their own (nondeductible) use. Thus, under the terms of the instrument only the minimum one million dollar fund is exempt from the nephews' power to divert the residue to a noncharitable use. Even if the nephews, acting as fiduciaries, were to expend sums in excess of one million dollars for the charitable purpose, no estate tax charitable deduction would be allowable for such excess.

* * * * *

Even if the ITEM III gift to charity were treated as a residuary bequest (which it would not be), a disclaimer by the nephews would not enhance the charitable bequest. The disclaimed residuary interest would pass to the children of the nephews (or to the intestate heirs of the decedent if the children also disclaimed). See 57 *Am. Jur.* Wills, section 1573 (1948), which states that generally, a testamentary gift which is renounced by the donee is regarded as a lapsed bequest or devise for purposes of determining the devolution of the property covered thereby with the result that a disclaimed residue will pass under the express provisions for its alternative devolution under the will, or as intestate estate in accordance with the principles of lapsed gifts generally. See also *Torre* v. *Chestnut*, 156 S.E. 906 (S.C. 1931), where a lapsed bequest under a residuary clause was held to become intestate property distributable to heirs and not to pass to other residuary legatees. In *Torre* the South Carolina Supreme Court cited with approval cases from several jurisdictions. These cases held that where a residuary legacy is not to a class, but is to persons by name, the lapse of one of the residuary interests will fall to the intestate heirs rather than to the remaining named residuary legatees. Note that the rejection of a testamentary interest by an intestate heirs is treated as a release and not as a disclaimer. *Hardenbergh* v. *Commissioner*,

198 F. 2d 63 (8th Cir. 1952), cert. den. 344 U.S. 836.

Since the residuary bequest in Martha Brice's will was not simply to a class such as "all of my nephews" but was to designated persons "Thomas W. Edwards and Philip L. Edwards," their interests would not fall to the benefit of any remaining residuary legatees. Thus, even if the charitable bequest could be characterized as a residuary bequest, it would not be enhanced by the failure of any other residuary interests. It follows that a renunciation or disclaimer of the nephews' residuary interest would cause their interest to fall to the children of the nephews, who are provided to take the residue in the event of lapse, or to the intestate heirs of the decedent Martha Brice. Whether a disclaimer caused the residue to pass to the heirs of Martha Brice or to the children of the nephews, charity's interest would not be increased by any disclaimer. Accordingly, the charitable deduction for the estate must be limited to one million dollars.

II. DEVIATION FROM LITERAL DIRECTIONS

Your second question is whether the charitable deduction would be jeopardized by a deviation from the provision in the will that directs the executors to "erect" a building or structure. The charitable deduction for one million dollars would not be disallowed in this case merely because the funds were devoted to paying of an indebtedness on a building, rather than erecting a building. The deduction would be allowable so long as the indebted building is charitable in nature in accord with the decedent's purpose in the will.

In this connection, see *Harter* v. *Johnson*, 115 S. E. 217 (S. C. 1922), where the executors under the will were given discretion to carry out according to their best judgment a provision setting aside the residue for the purpose of establishing, building, and equipping a public hospital. The argument was made that the decedent's objective appeared impractical under the circumstances. The court held that the decedent's charitable intent should nevertheless be fulfilled without the application of *cy pres*. The court had determined that the charitable nature of the bequest was certain and that the trustees had ample power to fulfill the stated purpose. The court noted that other trustees could be appointed in the event that executors should die, refuse to act, or for any other reason fail to execute the trust.

The charitable deduction is allowed in cases such as these in reliance on the mandatory terms in the will which provide the assurance that the state courts will not permit the bequest to pass to noncharitable recipients. Consequently, it is not necessary to predict *which* charitable purpose the fund is ultimately to be applied to, so long as the state court can be expected to restrict the executor to choices that are charitable.

It is important that you attach a copy of this letter to the return to be filed for the estate. An extra copy is enclosed for that purpose.

Very truly yours,

LESTER H. WALLACE,
Chief, Estate and Gift Tax Branch.

WILL OF MARTHA W. BRICE

STATE OF SOUTH CAROLINA,
County of Sumter:

I, Martha W. Brice, of the County and State aforesaid, being of sound and disposing mind and memory, do hereby make, publish and declare this instrument to be and contain my Last Will and Testament, hereby expressly revoking any former Wills heretofore made by me at any time.

ITEM I

I direct that all of my just debts be paid as soon after my decease as may be practicable.

ITEM II

All the rest, residue and remainder of my property, both real and personal, of whatsoever kind and wheresoever situate, I give, devise and bequeath unto my nephews, Thomas W. Edwards and Philip L. Edwards, in equal shares and proportions, in fee simple. Should either the said Thomas W. Edwards or Philip L. Edwards pre-decease me, his child or children shall take and represent his share.

ITEM III

For quite sometime I have desired to provide some suitable memorial in memory of the Williams family and since the death of my husband I now desire to include his name in such memorial. At the present time I am undecided on such memorial and intend in the future to either redraft this Will or make a Codicil thereto, but in the absence of such I direct my two nephews, the beneficiaries of this Will, to erect some suitable building or structure to be known as The Williams-Brice Memorial Building, Wing Home, or whatever nature the structure might take, and in the absence of any later specific instructions from me, I leave the type and size of such memorial to the discretion of my two nephews, with the direction that the same be for the benefit of the Trinity Methodist Church of Sumter, the Epworth Orphanage or the University of South Carolina, or divided in any manner between the three.

The cost of said structure or structures shall be paid for out of my estate and I leave to the discretion of my two nephews the amount to be expended for this purpose, but the same shall not be less than the sum of One Million ($1,000,000.00) Dollars.

ITEM IV

I direct my Executors to erect on my cemetery lot, or on some other suitable lot in Sumter Cemetery, a mausoleum for the interment of myself and my late husband. I desire such mausoleum to be a handsome structure, but I leave the size and cost of same to the discretion of my said Executors.

ITEM V

I hereby nominate, constitute and appoint my two nephews, Thomas W. Edwards and Philip L. Edwards, or the survivor of them, to be Executors of this my Last Will and Testament, without bond, and I hereby give and grant unto them, as such Executors full power and authority to sell, convey and deliver all or any part of my estate, at such times, and from time to time, and at such prices and on such terms as they may deem desirable and for the best interests of my estate.

In witness whereof, I have hereunto set my hand and seal this 3rd day of July, A.D., 1969.

MARTHA W. BRICE.

Signed, sealed, published and declared by the Testatrix, Martha W. Brice, to be and contain her Last Will and Testiment, in our presence, who, in her presence, and in the presence of each other, and at her request, have hereunto subscribed our names as witnesses thereto.

Mr. THURMOND. Mr. President, I am pleased to take this opportunity to urge passage of the pending amendment. It was originally introduced as S. 3854 and approved by the Senate Finance Committee.

This legislation will make it possible for the University of South Carolina to receive a bequest of approximately $5 million, an amount which represents the largest single gift in the history of the school. Mr. President, I cannot overemphasize what this money will mean to this old and respected institution.

Mr. President, this legislative route is necessary because of a technicality in the estate tax law and its application to the will which provides for the generous gift. It is clear from the will of the decedent that she intended to leave a very substantial amount of money to the university, and it is most unfortunate that technicalities have so far prevented this from being accomplished.

It is because this unusual situation, Mr. President, that my distinguished colleague, the junior Senator from South Carolina, and I, have introduced the pending corrective measure.

It is important to note that, although the Treasury Department normally opposes bills of a special nature such as this, they do not oppose our amendment. Treasury has carefully reviewed the facts surrounding this situation, and feels that only by means of special legislation can the true intent of the testator be implemented.

It is our hope that the Senate will adopt our amendment as soon as possible so that final congressional action may be taken before adjournment of the 91st Congress.

Mr. President, I ask unanimous consent that a letter I received from Mr. John S. Nolan, Deputy Assistant Secretary of the Department of the Treasury, dated December 16, 1970, follow these remarks.

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

THE DEPARTMENT OF THE TREASURY,
Washington, D.C., December 16, 1970.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: You have requested a statement of the position of the Treasury Department on S. 3854, a bill for the relief of the estate of Martha W. Brice.

Mrs. Brice died on November 2, 1969, leaving a taxable estate for federal estate tax purposes after payment of debts and administration expenses of approximately $13,800,000. The will provided that not less than $1 million was to be given to three charities, one of which was the University of South Carolina. It appears that at the time of Mrs. Brice's death it was the understanding of her two nephews, who are the other beneficiaries of the estate, that a codicil to the will was anticipated in which a larger charitable gift would have been provided to the University of South Carolina. The gift is to be used for building construction on the campus and a gift of $1 million will not be large enough to provide the facility contemplated. The heirs now propose to substantially increase the charitable gift to the University and seek to treat the larger amount as a charitable contribution deductible for federal estate tax purposes. The bill would in effect allow a deduction for the amount actually distributed from the estate to the University.

This matter was brought up in Executive Session of the Senate Finance Committee on Friday, December 11, 1970. At that time I was unaware of the facts and reported to the Committee that in the absence of more information I opposed the bill on behalf of the Administration. Upon further review of the facts set forth above, particularly the fact that the amount in question will be used solely for charitable or educational purposes in accordance with what appears to have been the actual intent of Mrs. Brice, the Treasury Department has changed its

position. The Treasury Department does not oppose the enactment of this bill.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

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

The amendment was agreed to.

Several Senators addressed the Chair.

Mr. THURMOND. Is this amendment agreed to, Mr. President?

The PRESIDING OFFICER (Mr. FULBRIGHT). The amendment is agreed to, and I was just about to say the bill is passed.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. MILLER. Mr. President, I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Mr. President, I am opposed to this amendment. It is clear that it represents nothing more than an attempt to divert tax money—perhaps in excess of $3 million—from the U.S. Government to a particular university. This would be accomplished by permitting the estate of the decedent to claim a charitable deduction of $5 million even though the decedent's will obligates the estate for a charitable gift of $1 million.

In this regard, we should not be deceived by any suggestion that this proposal is designed to correct a technical defect in a decedent's will or to adjust a tax inequity. On the contrary, the will in this case is perfectly clear. It provides for charitable contributions in excess of $1 million but only at the discretion of the executors. And while increasing a charitable gift from $1 to $5 million may look like a worthwhile project, the significant fact with respect to tax equity is that the Internal Revenue Code treats all taxpayers alike in these circumstances and does not permit a charitable deduction based on mere discretion. The proposed amendment seeks to override the statute and, in effect, to appropriate tax moneys due the United States to a favored donee but only in this one case. Other estates would not have an opportunity to make gifts after the decedent's death and receive an estate tax deduction.

The enactment of this proposal would result in a reduction in the amount of the decedent's taxable estate subject to tax by the amount of a charitable contribution not otherwise allowable. Thus, the taxable estate would be reduced by $4 million, and if the estate was subject to the maximum tax rate, then 77 percent of that amount need not be paid in taxes to the Government. It is my understanding that the actual rate is not far from this 77 percent. Consequently, in such a case, something like $3 million would be diverted from the Treasury to a privileged charitable donee. When the Government has such a great need for funds to support needed programs, can we afford such generosity without comparing the need of this institution with other needs before us?

I hope the Senate will vote against this amendment. The worst aspect of it is the precedent it would set for other special legislation.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. MILLER's amendment is as follows:

At the end of the bill add the following new section:

"(a) Section 56 of the Internal Revenue Code of 1954 (relating to imposition of minimum tax for tax preferences) is amended—

"(1) by striking out paragraph (2) of subsection (a) and inserting in lieu thereof the following:

"'(2) the sum of—

"(A) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

"'(i) section 33 (relating to foreign tax credit),

"'(ii) section 37 (relating to retirement income), and

"'(iii) section 38 (relating to investment credit); and

"'(B) the tax carry backs and carry overs to the taxable years.'; and

"(2) by adding at the end of such section the following new subsection:

"'(c) TAX CARRY BACKS AND CARRY OVERS.—If for any taxable year—

"'(1) the taxes imposed by this chapter (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

"'(A) section 33 (relating to foreign tax credit),

"'(B) section 37 (relating to retirement income), and

"'(C) section 38 (relating to investment credit), exceed

"'(2) the sum of the items of tax preference in excess of $30,000,

then the excess of the taxes described in paragraph (1) over the sum described in paragraph (2) shall be a tax carry back to each of the 3 taxable years preceding such year and a tax carry over to each of the 5 taxable years following such year, except that such excess may not be a carry back to any taxable year ending on or before December 31, 1969. The entire amount of the excess for a taxable year shall be carried to the earliest of the taxable years to which such excess may be carried, and then to each of the other taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which excess may be carried.'

"(b) The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1969. In the case of a taxable year beginning in 1969 and ending in 1970, the excess referred to in section 56(c) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall be an amount equal to the excess determined under such section (without regard to the sentence) multiplied by a fraction—

"(1) the numerator of which is the number of days in the taxable year occurring after December 31, 1969, and

"(2) the denominator of which is the number of days in the entire taxable year."

Mr. MILLER. Mr. President, I am authorized to state that this amendment, which is not the one the Senator from Delaware just referred to, has been agreed to by the Finance Committee. Its purpose is to cure a defect which exists in the minimum income tax law which we attached to the Revenue Act of 1969—a defect recognized by all conferees during the conference, but which unfortunately could not be cured, because curative language was not before the conference.

I ask unanimous consent to have printed in the RECORD at this point an illustration of the defect to which I refer.

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

The defect can be illustrated as follows:

	Year 1	Year 2
Tax preference items (over $30,000)	$100	$200
Income tax	150	100
Minimum tax base	0	100

Under present law, as illustrated above, a taxpayer would receive *no benefit* from the excess of $50 of his tax over tax preferences in year 1. This distorts the theory of the Minimum Income tax, which is calculated to pick up tax lost due to an excess of tax preferences over income tax.

The defect can be substantially cured by permitting a carry over (and carry back in appropriate situations) of the excess of the income tax over tax preferences thus

	Year 1	Year 2
Tax preference items (over $30,000)	$100	$200
Income tax	150	100
Excess of taxes	50	[1] 50
Minimum tax base	0	50

[1] Carried over.

Because of the carry over, the Minimum Tax base in year 2 would be $50 instead of $100, as required by the present law.

Mr. MILLER. Mr. President, the cure for the defect which this amendment provides is to permit a carryback for 3 years and a carryover for 5 years of the excess of the taxes over the tax preferences considered, so that those individuals and businesses which have irregular income from one year to the next will not be discriminated against, as against those businesses and individuals which have a level amount of tax preferences and taxes.

I would be pleased to hear any comments by the distinguished chairman of the committee, who is thoroughly familiar with the amendment.

Mr. LONG. Mr. President, the committee discussed this amendment and agreed that it should be offered on some appropriate bill on the floor, and that the committee would support it. The Senator was the author of the minimum income tax measure which the Senate passed as an amendment to the tax reform bill last year; and in the Senate-House conference committee, the Senator himself pointed out that his own amendment should be amended so that if a person paid a very high tax in one year and had been subject to the minimum income tax the following year, be-

cause his circumstances were such that he had paid a great tax in one year and owed very little the next, that he should have the advantage of averaging for the purposes of a minimum income tax.

The conferees agreed that that was right, but they felt it would have to be done later, because it was not in conference between the Senate and the House of Representatives. It is my understanding that the distinguished chairman of the House Ways and Means Committee understands the problem, and he agrees, I believe, that this matter should be corrected.

Mr. MILLER. Mr. President, I move the adoption of the amendment.

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

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to extend the period for filing certain manufacturers claims for floor stocks refunds under section 209(b) of the Excise Tax Reduction Act of 1965, and for other purposes."

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1482, H.R. 16506.

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

INCOME TAX EXEMPTION OF CEMETERY CORPORATIONS

The bill (H.R. 16506) to amend the Internal Revenue Code of 1954 to clarify the applicability of the exemption from income taxation of cemetery corporations 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. 91-1470), explaining the purposes of the measure.

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

I. SUMMARY

H.R. 16506 would extend the tax-exempt status presently granted under the Internal Revenue Code to cemetery corporations which are chartered for burial purposes to cemetery corporations which operate a crematorium, either alone or in conjunction with their burial activities.

The Treasury Department has indicated that it has no objection to the enactment of this bill.

II. GENERAL STATEMENT

Reasons for the bill.—Present law provides tax-exempt status to a cemetery corporation which is chartered solely for burial purposes if it is not permitted by its charter to engage in any business not necessarily incident to its burial purpose and if no part of the earnings of the corporation benefits any private individual.

The Internal Revenue Service in 1969 ruled that the operation of a crematorium was not necessarily incident to a burial purpose and thus caused an exempt cemetery corporation operating a crematorium to lose its tax-exempt status.

The committee agrees with the House that the operation of a crematorium is of the same nature as the activity which an exempt cemetery corporation presently is permitted to carry on. In other words, human bodies may be disposed of either by burial or by cremation; these are merely alternative forms of accomplishing the same purpose. It is not appropriate for the exempt status of a cemetery corporation to depend upon which of these methods of disposing of bodies it utilizes. A cemetery corporation which operates a crematorium, either as its only activity or in conjunction with its burial purposes, should be permitted to qualify for tax-exempt status if it otherwise satisfies the requirements for exemption.

In 1964, the Internal Revenue Service ruled that the establishment and operation of a mortuary be an exempt cemetery corporation was not a business necessarily incident to the burial purposes for which it was organized and thus would cause the corporation to lose its tax exemption. The committee, by the action taken in this bill, intends no implications as to the tax status of cemetery companies operating mortuaries. In addition, by the action taken in this bill, the committee does not intend to affect, either favorably or adversely, the status under existing law of any other activities carried on by cemeteries, other than the operation of crematoriums.

Explanation of bill.—The bill modifies the tax exemption provided by the Internal Revenue Code for cemetery corporations to bring within the scope of the exemption corporations chartered solely for the purpose of the disposal of human bodies by burial or cremation. Thus, a cemetery corporation is to be permitted to operate a crematorium (either alone or in conjunction with burial) and qualify for tax-exempt status.

As under existing law, a corporation of the type specified above would not qualify for tax-exempt status unless it is not permitted to engage in any business not necessarily incident to the purpose for which it is created and unless no part of the net earnings of the corporation inures to the benefit of any private individual.

It is the committee's understanding that cemetery companies which qualify under present law for the separate exemption provided for "cemetery companies owned and operated exclusively for the benefit of their members or which are not operated for profit" may presently operate crematoriums. In view of this, the bill does not modify the exemption provided for these cemetery companies.

The amendment made by the bill is to apply to taxable years ending after the date of enactment of the bill.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The PRESIDING OFFICER. The Chair lays before the Senate the unfinished business, which the clerk will state.

The assistant legislative clerk read as follows:

The report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. BIBLE. Mr. President, I know that the Senator from Indiana is going to seek recognition, and I want to protect his rights. He was to talk immediately upon resumption of consideration of the bill, but I do not know where he is. Therefore, I suggest the absence of a quorum.

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

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

The PRESIDING OFFICER. The adoption of the conference report.

Mr. BIBLE. Mr. President, on the adoption of the conference report, which I assume will be coming down sometime between now and January 3, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BIBLE. Mr. President, the day before yesterday, a number of questions concerning the supersonic transport were asked of me by the distinguished Senator from Wisconsin. I supplied him with answers in my question-and-answer period to many of the questions. The questions, I thought, were rather technical. I assured him, as the RECORD of the day before yesterday will show, that they were technical and that I would secure from the Department of Transportation the correct answers to the questions he posed. Now I should like to offer, as a response to those questions, the answers supplied to me by the Department of Transportation. I ask unanimous consent to have them printed at this point in the RECORD.

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

ANSWERS FROM THE DEPARTMENT OF TRANSPORTATION

Question. How much would the $210 million program increase total program cost?

Answer. The impact of the reduction of the FY-71 requested appropriation from $290 million to $210 million is difficult to assess at this time. One uncertainty is when, and in what amounts, additional funds may be available from the 92nd Congress to support the program. Without an indication of the future funds that might be available, a definitive statement as to the exact impact of the reduction cannot be determined at this itme.

Uncertainties also exist as to what the response of the manufacturers will be to the reduced funding levels, as well as the subcontractors, and the thousands of smaller companies now supporting the SST prototype and engine programs. It is possible that because of financial difficulties many of the smaller companies may have to terminate their participation in the SST program.

It is also possible that the contracts with the prime contractors will have to be renegotiated if it became certain that the total costs of the manufacturers will be significantly increased as a result of the reduced FY-71 appropriation.

Under most favorable conditions of further funding and contract negotiations, the impact on cost and schedule could be relatively insignificant. On the other hand, unfavorable events could result in a program slippage of some three to nine months and increased costs of between $50 to $180 million. Again it must be noted that until actual negotiations with the manufacturers are completed and next year's funding is known

it is not possible to ascertain specific program impacts associated with the proposed $210 million funding level.

For the above mentioned reasons, it is obvious that it is not to the Government's best interest to publicize specific impact estimates associated with the funding reduction until the DOT has the opportunity to negotiate further with the manufacturers.

Question.—How many GE employees now work on the SST?

Answer.—There are approximately 900 direct people and 700 indirect people currently involved in SST work at General Electric for a total of 1,600.

Question.—How many Boeing employees now work on the SST?

Answer.—DOT estimates 6,800 people are employed at Boeing on the SST.

Question.—How many employees would be laid off on a $210 million program?

Answer.—Under a $210 million program only minor layoffs would be anticipated—the lower appropriation would slow the manpower buildup at both the prime and subcontractor plants.

Question.—What is the total now employed in subcontracting at Boeing and General Electric?

Answer.—Subcontracting and Vendors: Boeing, 3600. GE, 2,000.

Question.—How many will be employed in full production—direct not using the multiplier effect?

Answer.—Prototype direct employment, 20,000; Production direct employment, 50,000.

Question.—When will production begin?

Answer.—Production is scheduled to begin in early 1974.

Question. When will production begin?

Answer. Start of production is scheduled for early 1974 building up to a peak rate of 5 per month in 1978. This coincides with the peak manpower level of 50,000 direct people.

Question. When will the program reach 50,000 jobs for production?

Answer. The peak manpower estimate of 50,000 jobs is projected for 1978.

Question. What amount would be owed under the contract to reimburse contractors?

Answer. As of 12/31/70 $79.8 million for Boeing and GE contracts.

Question. Would contractual obligation be $85 million? (Bible $79.8 million and the additional $12 million)

Answer. Question # 10 is answer for contractor share amounts. The additional $12 million is a DOT estimate of additional costs associated with terminating about a half billion dollar contractual package including necessary administrative costs incident to closing out the many contracts.

Question. Will contracting costs of construction of the prototypes be identical to the anticipated production version?

Answer. The government has no commitment beyond the two prototype aircraft; hence, the government is not involved in production contracting planning.

13. (Page 20358, Column 1.)

Question. What is the explanation of the weight difference between prototype and production airplanes?

Answer. The gross weight for the B2707 production airplane at certification, after test program development, is 750,000 lbs. The gross weight for the prototype design airplane has been set at 635,000 lbs. The major portion of the weight difference is due to an increase in fuel and passenger capability in order to provide the airlines with increased payload-range performance. The difference in airframe weight has been estimated to be approximately 10,000 lbs. based on historical records of the 707, 727, and 747 commercial aircraft.

The design gross weight of the prototype was selected by Boeing to take advantage of their experience with the growth of large jet aircraft. Historically, a large part of an airplane structure has strength capability higher than the design value. Local areas which have strengths below that of the majority of the structure are found and reinforced during intensive analytical, static, fatigue, and flight test programs. The component test program and the limit load test of the complete airframe are scheduled to support these improvements for the first production airplanes. The improved strength capability has been realized in commercial and military aircraft. When the deficient components are strengthened, increases in gross weight with accompanying improvement in payload-range results.

Some relative increases in weight to increase the structural strength can be provided with insignificant effect on cost. A preplanned program established between Engineering and manufacturing allows for structural strength growth by establishing complete ground rules in the initial detail design period. Thus tooling, manufacturing, and engineering work for the life of the program allows for minor revisions for growth purposes. This concept has been in successful operation in all of the Boeing commercial jet programs.

14. (Page 20358, column 2.)

Question. How can we test the planes if the production model is to be 20% wider: (Prototype 5-abreast, Production 6-abreast).

Answer. Until the production airplane is fully defined and a specification is submitted to the custom airlines, the specific differences between the prototype and the production aircraft are not completely established. The width of the fuselage is likely to be a fairly minor difference between the two, if it indeed does represent a difference. The general handling characteristics, structural characteristics, stability and control, and all the other major characteristics of the airplane are unlikely to be changed by fuselage width. Differences in fuselage width are tested in the wind tunnel and can be applied to test data from the prototype flight program.

There is a very strong possibility that the first production airplanes will use a 5-abreast fuselage or even if 6-abreast fuselages are produced in early orders that some airlines will specifically request 5-abreast in their first deliveries. The fuselage width of the prototype airplane was established as a reasonable starting point for development. It provided sufficient interior space for 234 passengers in a 5-abreast seating arrangement. Economic studies and subsequent to the design selection indicated that more passenger capability would provide a sound basis for reasonable operating costs. The airline advisory teams recommended a 6-abreast seating arrangement similar to the 707 airplane rather than extend the fuselage length in order to increase the passenger capacity.

The increase in fuselage width for the production airplane to provide for 6-abreast seating can be made and still utilize a major portion of the prototype airplane's component designs and tooling. These include the basic wing structure outboard of the fuselage; the inlets, pods and engine installation arrangement; forward and aft fuselage sections; the horizontal tail, central fin and major portions of the vertical tail, and major portions of the flight control surfaces. In addition, it includes all systems except for the environmental control system which requires some increasing of capacity due to the increase in the number of passengers.

Incorporation of the increased fuselage width is accomplished by spanwise displacement of the wing. In this manner, the design philosophy for the wing-to-fuselage structural attachment remains identical to that used on the prototype.

The utilization of wider fuselage sections without a complete tooling change is made possible by design and planning for the wing tools to be made to separate on the center line so that an insert can be installed in the wing subassembly. This permits the manufacture on a common set of tooling fixtures.

15. (Page 20358, Column 2.)

Question. What about fabrics for skin? Is brushed titanium honeycomb to be used as skin on prototype as it is on production?

Answer. Senator Proxmire's reference to "brushed" titanium skin is believed to mean "brazed" titanium skin. Optimization studies showed that the most efficient structure for the covers of the wing and tail consisted of two sheets of titanium stabilized by a core made up of titanium foil formed in the shape of a honeycomb and bonded between the two sheets. In the case of the SST, the method of bonding is by high temperature brazing. Brazed titanium honeycomb sandwich panels are being used for the covers of the wing and tail of the two prototype airplanes and are planned to be used for the production airplanes.

16. (Pages 20358 Column 3.)

Question. What about the interior and environmental controls for the prototype? Will they be the same as for the production model? Is it not true they would have to differ sharply?

Answer. The environmental control system for the SST prototype will be essentially the same as the production airplane environmental control system (ECS). As a matter of fact, the concept of the ECS in the prototype and production airplanes is the same although the prototype uses off-the-shelf equipment where possible as a means to reduce costs. Valuable thermal and ECS test data will be obtained from the protoype flight test program that can then be incorporated into the production SST program to optimize environmental control system design.

17. (Pages 20358 Column 3.)

Question. What goal have Boeing and GE set for themselves for the noise level for the SST?

Answer. The noise objectives for production are:

112 EPNdB during takeoff at 0.35 nautical mile sideline distance.

108 EPNdB after takeoff at 3.5 nautical mile from brake release.

108 EPNdB during approach and landing at a point 1 nautical mile from threshold of runway.

With regard to S4547, the impact of the lower sideline noise level, i.e. 108 EPNdB, on the airplane is being evaluated.

The Boeing Company has prepared a sound tape that contrasts sideline and approach noise for a 707 jet transport and the SST. In order to assure technical validity, the National Bureau of Standards, at the request of DOT, conducted tests on the portable tape recorder and the tape. Their report dated 11 December 1970 states ". . . that the sound pressure levels measured at Boeing are probably substantially correct." This sound tape clearly portrays the difficulty, if not impossibility, for the human ear to distinguish between 112 EPNdB and 108 EPNdB. Noise standards for new subsonic jet transports included 108 EPNDB during takeoff measured 0.35 nautical miles from runway center line.

Mr. BIBLE. I yield the floor.

Mr. BAYH. Mr. President, I should like to propose the following motion:

I move to postpone the consideration of the pending conference report on Department of Transportation appropriations until tomorrow, Saturday, December 19, 1970.

Mr. BIBLE. Mr. President, I am not going to interpose an objection. I believe the parliamentary situation accomplished by this is that it permits a Senator to speak more than twice today on this bill, because we do not actually come to grips with the conference report itself until such time as it is laid before the Senate. I think this accomplishes it.

Since the vote on the cloture motion is set for 11 a.m. tomorrow, and since we are only going to work on this particular part of our many problems between now and 3 p.m., I interpose no objection to the request of the Senator from Indiana.

This is a motion to postpone the consideration of the conference report until 10 a.m. tomorrow. Is that correct?

Mr. BAYH. That is correct. I might say to the Senator from Nevada that I would be perfectly happy to discuss this motion with him from now until 12 o'clock.

Mr. BIBLE. I do not think it will take us quite that long to discuss it. I would ask only one question, which I think can be answered quickly, and I think I know the response: Does this meet with the approval of the distinguished Senator from Wisconsin, who has asserted himself in this SST problem for some period of time?

Mr. BAYH. Yes.

Mr. BIBLE. I think he made the same motion, himself, the day before yesterday. If it meets with his approval, I have no objection. I am sure that the Senators from Washington have no objection to this procedure. The only thing that is accomplished by it is that it permits those who want to talk on the SST to talk more than twice in this legislative day. Is that not correct?

Mr. BAYH. The Senator from Nevada is correct. The Senator from Indiana has no desire at this time to speak more than once. Technically, I think the Senator from Nevada is correct. The Senator from Indiana has checked with the Senator from Wisconsin, and he is in complete agreement with this motion.

Mr. BIBLE. Would the Presiding Officer have the clerk state the motion of the Senator from Indiana, so that I am clear on what is being done? I think I know what is being done, but I want to be sure.

The PRESIDING OFFICER. Will the Senator from Indiana please send the motion to the desk?

Mr. BAYH. I will be glad to read it myself, and then the clerk can read it, so that there will be no question about it.

I move to postpone the consideration of the conference report on Department of Transportation appropriations until tomorrow, Saturday, December 19, 1970.

Mr. MANSFIELD. Mr. President, I wish the Senator from Indiana would not press that motion, because I would have to oppose it. An agreement has been reached that this would be the pending business during the first shift so to speak from now up to and including the 22d of this month.

I think that the manager of the bill and those most interested on both sides have been most courteous and considerate in allowing other noncontroversial or slightly controversial proposals to intervene.

It was my understanding, in talking with the Senator from Indiana, that he wanted to clear up a conference report on national disasters, which I understand would only take 2 or 3 minutes and is noncontroversial. But I would hope that the Senator would not press that motion, because there is nothing to be gained. It is debatable, and it will be debated if it is pressed.

Mr. BAYH. The Senator from Indiana in no way wants to interfere with the normal legislative process that was established by the filing of the cloture motion yesterday.

I would be prepared to withdraw this motion and ask unanimous consent that I be permitted to deliver a speech which will not count against me.

The PRESIDING OFFICER. Is there objection?

Mr. BIBLE. Mr. President, would the Senator from Indiana restate that? Unanimous consent to do what?

Mr. BAYH. Let me rephrase it.

Mr. BIBLE. I assured the distinguished Senator from Wisconsin the other evening—if it throws any light on this parliamentary entanglement—that I had no objection to his speaking. I do not want to foreclose anybody's rights in this matter.

Mr. BAYH. Mr. President, I withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

The Senator from Nevada is recognized.

Mr. BIBLE. Mr. President, as I understand, the pending business is the adoption of the conference report.

The PRESIDING OFFICER. The Senator is correct.

Mr. BIBLE. The yeas and nays have been ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. BIBLE. Mr. President, without losing my right to the floor, I yield to the distinguished Senator from North Dakota for 2 minutes.

POTATO AND TOMATO PROMOTION PLANS

Mr. YOUNG of North Dakota. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1181.

The PRESIDING OFFICER laid before the Senate S. 1181, an act to provide for potato and tomato promotion programs.

Mr. YOUNG of North Dakota. Mr. President, I move that the Senate insist on its amendments and agree to the request of the House for a conference, and that the Chair be authorized to appoint the conferees.

The motion was agreed to, and the Chair appointed Mr. ELLENDER, Mr. HOLLAND, Mr. EASTLAND, Mr. AIKEN, and Mr. YOUNG of North Dakota conferees on the part of the Senate.

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 Presiding officer (Mr. STEVENSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

Mr. BIBLE. Mr. President, the pending business is on adoption of the conference report on the appropriation for the Department of Transportation, is that correct?

The PRESIDING OFFICER. Yes; and the yeas and nays have been ordered.

Mr. BIBLE. The yeas and nays are still ordered. I thank the Chair.

Mr. President, I now yield the floor.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. The Senator from Indiana is recognized.

FEDERAL PROGRAMS FOR RELIEF FROM EFFECTS OF MAJOR DISASTERS—CONFERENCE REPORT

Mr. BAYH. Mr. President, I ask unanimous consent that, without losing my right to the floor, or having this count as another speech against the Senator from Indiana, as the chairman of the Senate conferees on the Disaster Relief Act conference committee, we temporarily put aside the pending business long enough to consider a conference report on the Disaster Relief Act of 1970.

Mr. BIBLE. Mr. President, reserving the right to object—and I do not think I shall object—do I understand correctly that this is a request of the Senator from Indiana merely to call up a conference report, which has been agreed to on both sides of the aisle, if I am correctly advised, and will occupy not over 15 minutes?

Mr. BAYH. That is right.

Mr. BIBLE. I did not catch any time limit.

Mr. BAYH. Mr. President, I ask unanimous consent that the time allotted to the conference report not exceed 15 minutes.

Mr. BIBLE. With the further understanding that at the termination of the 15 minutes and disposition of the conference report, the pending business will be adoption of the conference report on the Department of Transportation.

Mr. BAYH. That certainly is the intention of the Senator from Indiana.

Mr. BIBLE. I was sure that it was, of course.

Mr. SCOTT. Mr. President, I take it there is no expectation of a rollcall vote to be taken on this matter which the Senator from Indiana has in mind.

Mr. BAYH. The Senator from Indiana does not intend to ask for a rollcall vote. He cannot speak for other Members of this body, of course, but he knows of no one who wants to ask for a rollcall vote.

The PRESIDING OFFICER (Mr. STEVENSON). Is there objection to the request of the Senator from Indiana? The Chair hears none, and it is so ordered.

Mr. BAYH. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3619) to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

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

The PRESIDING OFFICER (Mr. STEVENSON). 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 15, 1970, pages 41523–41528, CONGRESSIONAL RECORD.)

Mr. BAYH. Mr. President, the conferees on S. 3619 have agreed on a bill that establishes a basic, comprehensive Federal disaster relief program. It is intended to be permanent law. It aims at coordinating disaster relief and recovery efforts of all appropriate Federal, State, and local authorities, and all disaster relief and assistance organizations under a single, coherent law, so that when a major disaster occurs anywhere in the country, the full resources and capabilities of both the public and the private sectors can be marshalled to cope with the immediate threat to life and property and to undertake the long, difficult and costly task of repair, restoration, reconstruction and replacement.

It reenacts a number of provisions earlier written into law in 1950, 1966 and 1969; it repeals existing laws of those years; and it advances several new programs for responding effectively to major disasters.

This is the culmination of years of effort by many earnest and hard-working members of both Houses. I wish to pay tribute to the statesmanlike approach demonstrated once again by our colleagues from the House Committee on Public Works, Representatives JONES of Alabama, WRIGHT of Texas, JOHNSON and CLAUSEN of California, and SCHWENGEL of Iowa, who were the managers of the bill on the part of the House in this conference.

I wish also to express my deep appreciation for the intelligent and imaginative contribution made by my colleagues on the Special Subcommittee on Disaster Relief of the Senate Committee on Public Works: Senators SPONG, EAGLETON, GRAVEL, DOLE, GURNEY, and PACKWOOD.

My special gratitude goes to the chairman of the full committee, the distinguished Senator from West Virginia, JENNINGS RANDOLPH, under whose leadership the special subcommittee was formed and the investigations and hearings relating to enactment of this legislation were carried forward.

I also want to recognize the contribution of our distinguished ranking minority member, the Senator from Kentucky, JOHN SHERMAN COOPER. Many of the provisions of the bill he introduced, S. 3745, the Administration's Disaster Relief Act, have been incorporated in the bill before us.

Likewise, I wish again to thank the members of the Senate Committee on Banking and Currency and especially its chairman, Senator JOHN SPARKMAN, for the advice and counsel that they provided us in preparing this bill for submission to the Senate.

I will not take the time of the Senate to repeat the detailed description of this bill which appears in Senate Report 91–1157 and in the CONGRESSIONAL RECORD of September 9 of this year, beginning on page 31040.

It is enough to say, I believe, that, as agreed to in the conference, the bill follows the format of the Senate bill and includes a number of significant provisions that were contained in the House version.

Perhaps the most important of these is section 241 authorizing grants to local governments which, as a result of a major disaster, have suffered a substantial loss of property tax revenue. The Senate bill had proposed a community disaster loan fund for this purpose, but in the conference we were persuaded that the House approach was more equitable and would be a greater assistance to communities that had been ravaged by natural catastrophes.

It will be of interest to the members of the Senate Banking Committee that the disaster loan interest rate formula proposed by them was retained in the conference report with the addition of a 6-percent interest rate ceiling on any such loan. Likewise, the proposal of the Banking Committee, to treat veterans who hold direct GI loans in the same fashion as those who have guaranteed loans, was agreed to by the conferees. In addition, section 231 relating to small business disaster loans, including programs under both section 7(b)(1) and subsections (2) and (4) of the Small Business Act.

One feature of this legislation which has attracted widespread interest is the official recognition given to the Salvation Army and the Mennonite Disaster Service, as well as other relief and disaster assistance organizations.

Mr. President, in 1965 several Senators started work on a major overhaul of the disaster laws of this land. It has been a difficult struggle. The battle has been largely won and consummated by the adoption of this conference report. There are many people who are directly responsible for it. I allude to just two at this particular time; namely, the Senator from Virginia (Mr. SPONG) who was a member of the special subcommittee on disaster relief and one of the conferees, and the Senator from Kansas (Mr. DOLE), another member of the subcommittee and also one of the conferees. This was greatly helped by the strong assistance of our two colleagues from Mississippi, Mr. EASTLAND and Mr. STENNIS. When Hurricane Camille ravaged the gulf coast, they were very helpful, as were many others.

Mr. EASTLAND. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. EASTLAND. Mr. President, the distinguished Senator from Indiana (Mr. BAYH) left himself out. I think that he and the other conferees did a magnificent job on this conference. This is a good bill. If it had not been for the dogged determination of my good friend from Indiana, I do not believe this conference report would be before the Senate today. It will be a monument to the distinguished Senator from Indiana in the future.

Mr. BAYH. I certainly appreciate the kind remarks of my friend from Mississippi. I should point out——

Mr. EASTLAND. I should add that all the conferees have performed a very distinguished service in this conference report. It certainly will mean a lot to my State.

Mr. BAYH. I certainly appreciate the thoughtful remarks of the Senator from Mississippi. He has been very helpful.

One member of his staff, Bill Simpson, has been doggedly determined also. He worked closely with me and other members of the conference committee, as well as with the Committee on Public Works, and I appreciate his fine work.

What this bill will do, let me say quickly for the sake of saving time, is to establish once and for all, in one place the bedrock law of the land, a national policy for the provision of assistance for those who suffer severe losses in major disasters.

The history of disaster legislation in this country has been such that it has been spread over the record in so many places that it would take a Perry Mason and all his assistants to discover it. How the statutes and regulations would apply in any given situation also compounded the problem. We have now established, in one law, in advance of the time a disaster strikes, the various kinds of help that will be available to aid the helpless souls stricken by acts of nature.

Mr. President, the bill will greatly increase the commitment and the responsibility of the Government so far as what should be done with respect to providing help for those individuals who are the victims of a disaster.

Some of us have been conscience stricken by the inequity of the situation, in which our people would spend hundreds of millions of dollars whenever other nations were hit by disasters, which of course is in the finest tradition of American concern for others, but our laws did not provide adequate relief and help for our own citizens, in our own land, when they were hit by disasters.

Now we will have on the statute books if the Senate will enact and the President will sign this measure, a law which should do much to remedy the situation and provide meaningful, substantial assistance to disaster victims.

Mr. President, that is all I care to say at this time.

Mr. SPONG. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield to the distinguished Senator from Virginia who has been so helpful in this matter.

Mr. SPONG. Mr. President, the Conference report before the Senate will establish a mechanism by which all levels of government can respond quickly and efficiently to the needs of individuals, communities and businesses which may be struck by natural disasters.

The major provisions of the Disaster Relief Act of 1969 are retained and made permanent. Moreover, several sections of the conference report are retroactive to Hurricane Camille, and may well provide additional assistance needed by the victims of that disaster.

The retroactive provisions of the bill are as follows:

First. The President could authorize on a temporary basis the assumption of mortgage or rental payments of victims who because of financial hardship caused by a disaster, have received notice of eviction or foreclosure. Such assistance can be provided for 1 year or for the duration of the financial hardship, whichever is lesser.

Second. The Small Business Administration and the Farmers Home Administration could make loans to major sources of employment in a disaster-stricken area without regard to the $500,000 ceiling imposed administratively by SBA and FHA. In order to be eligible, an enterprise must be damaged to the extent that it is no longer in substantial operation as a result of a disaster.

Third. The President could authorize grants to any local governments which have suffered a substantial loss of property tax revenue as a result of a disaster. Grants could be made for the tax year in which the loss occurred, and for each of the 2 following tax years.

Fourth. The President could authorize 100 percent of the net cost of repairing or replacing public facilities damaged or destroyed by a disaster. Such payments would be based on restoring facilities to their design immediately prior to the disaster. Public facilities are defined as flood control, public power, sewage treatment and collection, water supply and distribution, or airport facility, any non-Federal aid street, road or highway, and most public buildings.

Mr. President, the retroactive provision authorizing 100 percent Federal payments for the cost of repairing or replacing public facilities should be of significant assistance to States struck by Hurricane Camille.

Federal aid for repairing non-Federal aid highways under the Disaster Relief Act of 1969 was limited to 50 percent of the cost. Eligibility for 100 percent of the cost will be extremely beneficial to my State, where highway repair work was a substantial item in the recovery effort.

I also am pleased the conference report gives specific recognition for the first time to the Salvation Army and the Mennonite Disaster Service. These organizations have a tradition of magnificent service in disaster assistance, and should have status comparable to the American Red Cross.

Mr. President, I have some reservations over the authorization in the conference report for a grant program to local governments suffering substantial losses of property tax revenue. I acceded to the wishes of other members of the conference committee on this matter, but I maintain my belief that as a matter of policy such assistance should be conditioned upon State participation in the program. The States should be charged with some degree of responsibility for assisting localities where tax bases have been substantially destroyed by a disaster. We should not look solely to the Federal Government in this matter.

The Disaster Relief Act of 1969 was a temporary measure, but it was a useful tool in the Virginia recovery effort from recordbreaking floods caused by Hurricane Camille last summer in the James River Basin. Several key provisions of last year's measure expire in just 14 days, so it is particularly appropriate that we are considering permanent legislation at this time.

Mr. President, I wish to commend the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) for establishing the Special Subcommittee on Disaster Relief, and to thank him for affording me an opportunity to serve on the subcommittee and to participate in the development of this legislation.

The product of our work, in my judgment, will be both workable and effective. We had the benefit of testimony from victims of Hurricane Camille in Virginia and Mississippi, and from officials responsible for administering disaster assistance programs.

It has been a pleasure to serve with our able subcommittee chairman, Mr. BAYH. He has been endeavoring since 1965 to secure the enactment of a permanent disaster assistance bill, and his background knowledge has been invaluable to me and other members of the subcommittee. I also wish to acknowledge the contribution made by other members of the subcommittee—Mr. EAGLETON, Mr. GRAVEL, Mr. DOLE, Mr. GURNEY, and Mr. PACKWOOD.

Also, I should like to take another occasion to thank this body on behalf of the citizens of Virginia for the swift consideration accorded both temporary and permanent legislation since Camille struck the gulf coast and the James River Basin of Virginia.

Mr. President, I commend the Senator from Indiana. Since 1965 he has been in the forefront of this fight. It is significant, as we adopt this conference report today, that we recognize here, just 15 months from the day, as Hurricane Camille struck, we are able to consider permanent legislation.

On the occasion when we adopted temporary legislation, that was done within a matter of weeks after Camille had struck.

Mr. BAYH. Mr. President, I certainly appreciate the kind remarks of the Senator from Virginia. As I said earlier, he has been one of those who has been a strong proponent of this legislation and was very helpful in getting more information and making it available to the committee when we held hearings in his State. We are all indebted to him for his efforts in this matter.

Mr. SPONG. Mr. President, I thank the Senator from Indiana.

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

Mr. BAYH. I yield.

Mr. DOLE. Mr. President, first let me echo the views expressed by the Senator from Virginia, the Senator from Mississippi, and the Senator from Indiana.

Let me also suggest that this has been an area of cooperation between the executive branch and the legislative branch. There has been coordination, cooperation, and, I think, an effort to compromise some of the differences that have arisen.

I certainly share the views expressed by everyone that this is necessary legislation, that it is in the best interest of all America, and that this is an outstanding piece of legislation.

Perhaps only those in this Chamber recognize the importance of it when a disaster trikes their States or their areas, as has been the case in Indiana, Virginia, Mississippi, and to some lesser degree in Kansas.

No State is exempt. It can happen at any time and without warning.

I also express great thanks to the Senator from Indiana who has been a leader in this area of legislation.

Mr. President, today marks the culmination of our efforts to obtain comprehensive Federal disaster assistance legislation. Although attempts have been made in the past to improve the laws governing the Federal response to major natural disasters, not until passage of this legislation has there been one set of laws containing the programs and procedures necessary to insure effective Federal action.

In 1969, because of the unusually large number of natural disasters, and particularly after Hurricane Camille, it became apparent there was a need to review our disaster laws. To accomplish this task, the Senate Public Works Committee created the Subcommittee on Disaster Relief which held field hearings in Biloxi, Miss., Roanoke, Va., and here in Washington.

At the same time, the Office of Emergency Preparedness, the official arm of the President responsible for coordinating and implementing Federal disaster assistance, recognized the need to improve the Federal performance. In a special message to Congress, President Nixon proposed legislative and administrative changes necessary "to respond effectively when nature gets out of control and victimizes our citizens."

The legislation before us is a combination of the best elements of S. 3619, introduced by Senator BAYH, chairman of the Subcommittee on Disaster Relief, S. 3745, introduced by Senator COOPER, ranking minority member of the full Committee on Public Works, on behalf of the administration, and the House-passed bill. It contains new and revised programs that we hope will meet needs that have been inadequately or completely unmet in the past. It also consolidates existing programs that have proven satisfactory. By placing all disaster laws in

one statute, we hope to simplify the task of the administrator and improve the delivery of assistance to disaster victims.

But while most problems have been dealt with, two questions remain unanswered. During our hearings, we heard many complaints about insurance coverage for property owners. Since that time, the national flood insurance section of the Housing and Urban Development Act of 1969, permitting Federal insurance assistance in flood-prone areas, has been implemented. We will be very interested to hear from the Federal Insurance Administrator and the Office of Emergency Preparedness whether the frustrations arising out of past insurance practices have ceased to occur. Further, the comprehensive study of property insurance coverage requested by the President is to be available early next year and should provide additional guidance.

The response of State and local governments to a major natural disaster is often closely related to the viability of State and local civil defense units. The relationship between the Federal Government's disaster assistance and civil defense activities has been under review by the President. I am hopeful the findings and recommendations of his study will be made available in order for the Congress to determine if statutory changes are needed.

Finally, I want to take this opportunity to comment on the bipartisan spirit of cooperation among both Houses of Congress and with the executive branch. Throughout our consideration of this legislation, the Members of Congress and their staff worked closely with the responsible officials in the Office of Emergency Preparedness. The comprehensive approach to disaster assistance achieved by the Disaster Relief Act of 1970 is a tribute to that cooperation.

I join my colleagues in urging approval of this conference report.

Mr. BAYH. Mr. President, I certainly appreciate the comments of the distinguished Senator from Kansas who is a member of the Public Works Committee and was a Member of special subcommittee and the conference committee.

The Senator from Kansas has been extremely helpful.

As he points out, this is an excellent example of what can be done when problems confront this country. There are those who say that the system will not work. Frankly, I am often frustrated that it does not work as well as I believe it can. We are all dedicated to doing something about this.

This measure is an example of what can be accomplished by cooperative effort. A group of Senators started from scratch 5 years ago, and, by setting a number of precedents, were able to forge ahead and settle their differences. This effort has certainly been nonpartisan. The administration made some excellent suggestions that were incorporated into the act.

It is an example of how we can make the system work if we are willing to expend the effort to do so.

Mr. President, how much time remains of the 15 minutes?

The PRESIDING OFFICER. Seven minutes.

Mr. BAYH. Mr. President, I ask unanimous consent that the Senate return to the previous order of business until the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee, returns, and that his remarks then be made contiguous with those made heretofore.

Mr. GRIFFIN. Mr. President, reserving the right to object——

Mr. JORDAN of North Carolina. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAYH. Mr. President, would the Senator withhold that request?

Mr. JORDAN of North Carolina. I withhold my request.

Mr. BAYH. Mr. President, I rephrase my unanimous consent request to provide that when the Senator from West Virginia (Mr. RANDOLPH) comes to the floor, he be recognized for not to exceed 5 minutes and that his remarks be made contiguous with the debate which has just transpired.

Mr. GRIFFIN. Mr. President, reserving the right to object, the understanding would be that after the interruption of not to exceed 5 minutes by the Senator from West Virginia, the pending business would again be the conference report on the Department of Transportation.

Mr. BAYH. The Senator is correct.

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

Mr. RANDOLPH. Mr. President, I am very grateful to my colleague from Indiana who chaired the special subcommittee handling the disaster relief legislation in the Committee on Public Works. He has acted with knowledge and with perception of a problem that even though great today, perhaps could be even greater tomorrow, as we think in terms not of disasters spotted here and there throughout the States but of disasters that might have even greater impact on literally hundreds of thousands of people throughout America.

Mr. President, I express strong support of the conference report on S. 3619, the Disaster Relief Act of 1970. This is legislation that our country has long needed. Once it becomes law the Federal Government will be able, without special congressional action, to meet each new disaster—to move quickly and efficiently on a broad front to provide emergency relief and recovery assistance to affected citizens, businesses, farms, and States and local communities.

I commend the Senator from Indiana (Mr. BAYH) for his vision, his perseverance and his leadership in the long struggle to bring about enactment of this vital measure. He deserves the gratitude of all citizens.

Mr. President, the distinguished Senator from Mississippi (Mr. STENNIS) is now in the Chamber and he knows that earlier today we discussed the fact that disaster relief legislation had been a patchwork before hurricane Camille.

Mr. STENNIS. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield.

Mr. STENNIS. I commend the Senator from West Virginia highly for laying down the framework and the basis for enacting the necessary legislation to be ready to move in on these calamitous happenings. Although we did not have it at the time of hurricane Camille, we moved quickly after that. This legislation will be a great asset to the Nation. I know from experience that we need such a law as has been envisioned.

Mr. RANDOLPH. I am very grateful to my distinguished colleague from Mississippi for his kind words.

Now, Mr. President, the Senator from Indiana has had the dedicated support and assistance of the other members of the Special Subcommittee on Disaster Relief and of the full Committee on Public Works, both majority and minority members. As has been mentioned, the Senator from Kentucky (Mr. COOPER) in his bill, S. 3745, supplied many of the concepts which are embodied in the final version of the Disaster Relief Act. The Senator from Kansas (Mr. DOLE) made significant contributions during subcommittee and committee consideration, as did the Senator from Virginia (Mr. SPONG) and all members of the Public Works Committee.

While I did not serve as a conferee on this bill, I am aware of the spirit of cooperation and willingness to reach agreement manifested by the conferees on the part of the House, led by my dear friend, Representative BOB JONES of Alabama. I salute them and thank them for their help. Together, the conferees for both Houses have built a splendid edifice.

Mr. BAYH. Mr. President, before the Senator yields the floor, let me say that I appreciate his thoughtful remarks and reiterate what I said earlier that without his assistance the establishment of this Special Subcommittee on Disaster Relief, for the first time in history, would not have been possible. His interest and concern have been felt in every step of the deliberation process.

I, as the chairman of that subcommittee, am deeply grateful for his advice and counsel and perseverance in this area.

Mr. RANDOLPH. The Senator is very thoughtful.

Mr. TOWER. I originally offered an amendment to this bill designed to permit needed relocation payments to be made to owners and tenants who are forced by a major disaster to vacate homes or businesses which are subsequently included in an urban renewal project. At present, these people may be denied these payments simply because they are unable to return to their homes or places of business before they are condemned or acquired. Section 254 of the Senate version of the bill was designed to preserve their entitlement to the various kinds of relocation payments that can be made under section 114 of the Housing Act of 1949 notwithstanding this temporary situation resulting from the disaster.

I understand from the Senator from Indiana (Mr. BAYH) that the conference report on S. 3619 contains legislation designed to preserve this entitlement.

Mr. BAYH. Mr. President, I move that the conference report be approved.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

Mr. YARBOROUGH. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. YARBOROUGH. Mr. President, I firmly believe that history will record the adoption of S. 3619, the Omnibus Disaster Relief Act, as one of the most significant acts of the 91st Congress. For years, there has not been a comprehensive program of Federal relief designed to meet the many problems of the victims of major disasters. Instead we have sought to deal with each major disaster as an individual matter and have passed special legislation to assist its victims. All too often this emergency legislation has come too late and provided too little to be of the kind of assistance that such victims need. Furthermore, the basic disaster assistance act, Public Law 875, which was passed in 1950, is a limited measure which does not begin to touch the many human difficulties that result from such disasters. The bill before us today will fill this gap in our laws and will for the first time provide a coordinated program of assistance that will benefit all disaster victims.

During my 13 years in the Senate, my beloved State has suffered the devastating effects of many major disasters. Based on my experiences in assisting the victims of such disasters as Hurricane Beluah and Carla, I recognize the need for new programs of disaster assistance and therefore became an active cosponsor of this bill. While this bill was being considered by the Public Works Committee, Texas was again hit by three disasters of catastrophic proportions: The Lubbock and Plainview tornadoes, San Marcos flood and Hurricane Celia. I personally toured these disaster areas and talked with the victims and, based on this first hand experience, I realized that S. 3619 did not cover many of the special needs of these unfortunate people. Consequently, in an effort to make a good bill better, I introduced several amendments which the Senate accepted and which have been agreed to by the conferees.

First among these amendments was one which established a program under which the Director of the Office of Emergency Preparedness is authorized to make grants to persons who have suffered severe financial hardship as a result of a major disaster for the purpose of helping them meet their home mortgage or rent payments. In the Lubbock disaster, one of the hardest hit groups was the Mexican-American citizens who reside in the Guadalupe section of Lubbock. Not only did many of these people suffer major damage to their homes and physical injury, but also many of them lost their source of employment. Consequently they were unable to meet the payments on their homes and were in danger of being evicted. My amendment will provide relief to these people and enable them to retain their homes and also spare them the personal indignity of being dispossessed.

Second, I was successful in obtaining an amendment which would make the new programs provided for by S. 3619 retroactive to April 1, 1970, thus assuring the victims of the recent Texas disasters of receiving the benefits of this bill. Of particular importance to Texas disaster victims are the provisions that increase the amount of a Small Business Administration or Farmers Home Administration disaster loan that can be canceled from $1,800 to $2,500. Under the present law, a disaster victim who receives a loan from the Small Business Administration or Farmers Home Administration must repay the first $500 of such loan but can have the next $1,800 canceled. During these days of runaway inflation and high construction costs, this amount is of too little value to low- and middle-income disaster victims. S. 3619 wisely increases this amount to $2,500. My amendment assures the victims of the recent Texas disasters that they will have the benefit of this increased cancellation authority.

Third, the bill contains the legal assistance program that the distinguished junior Senator from Alaska (Senator GRAVEL) and I have advocated. More specifically, S. 3619 authorizes the Director of Office of Emergency Preparedness to provide legal services to low-income disaster victims who need help in obtaining their benefits under the disaster laws and also processing their claims arising out of the disaster. This program is of great importance because, in the confusion and despair which accompany a major disaster, many people do not know what rights they have and who to turn to for help in securing them. This amendment will provide these unfortunate people with the legal protection they so desperately need.

Mr. President, not only is S. 3619 a great piece of substantive legislation, it is also tangible evidence that the elective representatives of the people can and will respond to human needs. As I toured the disaster-striken areas of Texas, I assured these victims that Congress does care about their plight and would come to their aid. By passing this bill, Congress has fulfilled its duty and kept faith with the people.

Mr. President, I commend the distinguished junior Senator from Indiana (Senator BAYH) for all the work he has done on this important bill. I am particularly grateful to him for the concern he has shown for the Texas disaster victims. On their behalf, I thank Senator BAYH and all the members of the Public Works Committee for their efforts to help these citizens of my State. I urge all my colleagues to give this conference report their full support.

Mr. President, I commend the Senator from Indiana for his work on this bill and extend my thanks to him for accepting amendments which I offered as a result of having seen major disasters in Texas such as the Lubbock tornado where over 12 percent of the taxable property in the city of Lubbock, Tex., was destroyed and Hurricane Celia where an estimated 65,000 homes were either destroyed or damaged in Corpus Christi, Tex., and the surrounding counties. That hurricane was the most destructive storm that we have had in Texas since the Galveston disaster in 1900. I personally spent a good many days in the hurricane area. I also opened an office in Corpus Christi and sent five staff assistants there to help the people. The expense of this operation I had to personally bear.

All too often, we find that when a major disaster strikes it will receive a few big headlines. And for a short time, people will try to do something to help. However, a week later, when the headlines stop, the people pull out and the victims are left on their own. We have learned that is what happens in most situations.

This bill will prevent this from happening in the future. This is the best disaster bill this country has ever had. The 1950 bill was woefully inadequate. The amendments which the Senator from Indiana accepted and had written into the law will be of great help in the future.

In conclusion Mr. President, I wish to restate that this is an important bill. The distinguished minority leader has characterized this session of the 91st Congress as an "unmitigated disaster," or something to that effect. I disagree. I say that this session has been a blessing to the people. We have passed the best disaster assistance bill we have ever had. In the past week Congress has passed the first great occupational health and safety bill to help 80 million people. These two measures by themselves justify this session.

I compliment the distinguished Senator from Indiana for his leadership with this bill. It is truly a monumental piece of legislation.

Mr. BAYH. I thank my distinguished friend from Texas. He is one of those Senators who has been extremely helpful in bringing matters before the Senate, and he has the expertise he received in Texas as a result of the terrible disaster they had recently.

Mr. YARBOROUGH. I thank the Senator.

ORDER OF BUSINESS

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, am I correct in assuming the Senator from Indiana has the floor and that the order of business is the SST?

The PRESIDING OFFICER. The Senator is correct. The pending business is the Department of Transportation conference report.

Mr. KENNEDY. Mr. President, will the Senator yield for the consideration of a conference report?

Mr. BAYH. I am glad to yield.

Mr. GRIFFIN. Mr. President, reserving the right to object, and I shall not object, would the distinguished majority whip indicate a limitation of time for the matter he wishes to take up?

Mr. KENNEDY. I think the time of consideration would be no longer than 2 minutes.

Mr. GRIFFIN. Would the Senator incorporate a limit of 5 minutes in his request?

Mr. BAYH. Mr. President, I yield to the Senator from Massachusetts for not to exceed 5 minutes.

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

The Senator from Massachusetts is recognized.

REPEAL OF SECTION 7 OF THE ACT OF AUGUST 9, 1946 (60 STAT. 968)—CONFERENCE REPORT

Mr. KENNEDY. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 380) to repeal section 7 of the act of August 9, 1946 (60 Stat. 968).

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, which is as follows:

CONFERENCE REPORT (H. REPT. NO. 91–1785)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 380) to repeal section 7 of the Act of August 9, 1946 (60 Stat. 968), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate to the text and title of the bill, and agree to the same with an amendment as follows: In lieu of the text inserted by the Senate amendments insert the following: That section 7 of the Act of August 9, 1946 (60 Stat. 968), is amended to read as follows:

"SEC. 7. (a) A person who is not an enrolled member of the Yakima Tribes with one-fourth degree or more blood of such tribes shall not be entitled to receive by devise or inheritance any interest in trust or restricted land within the Yakima Reservation or within the area ceded by the Treaty of June 9, 1855 (12 Stat. 1951), if, while the decedent's estate is pending before the Examiner of Inheritance, the Yakima Tribes pay to the Secretary of the Interior, on behalf of such person, the fair market value of such interest as determined by the Secretary of the Interior after appraisal. The interest for which payment is made shall be held by the Secretary in Trust for the Yakima Tribes.

(b) On request of the Yakima Tribes the Examiner of Inheritance shall keep an estate pending for not less than two years from the date of decedent's death.

(c) When a person who is prohibited by subsection (a) from acquiring any interest by devise or inheritance is a surviving spouse of the decedent, a life estate in one-half of the interest acquired by the Yakima Tribes shall, on the request of such spouse, be reserved for that spouse and the value of such life estate so reserved shall be reflected in the Secretary's appraisal under subsection (a)."

SEC. 2. The provisions of section 7 of the Act of August 9, 1946, as amended by this Act, shall apply to all estates pending before the Examiner of Inheritance on the date of this Act, and to all future estates, but shall not apply to any estate heretofore closed.

HENRY M. JACKSON,
GEORGE MCGOVERN,
PAUL J. FANNIN,
Managers on the Part of the Senate.

JAMES A. HALEY,
ED EDMONDSON,
JOHN P. SAYLOR,
Managers on the Part of the House.

Mr. KENNEDY. Mr. President, I have a brief statement by the distinguished Senator from Washington which I will read:

Mr. President, the Act of 1946 limits the inheritance of trust land on the Yakima Reservation in the State of Washington to (1) enrolled members of the Yakima Tribes, (2) who have one-fourth degree or more of Yakima blood. An exception is made for a surviving spouse who is an enrolled member but possesses less than one-fourth degree of Yakima blood. Such person may inherit a life estate only in not more than one-half the property.

This law has worked unfairly against other Indians who may have intermarried with Yakima Indians. As a result, their children have frequently been disinherited. H.R. 380, as originally passed by the House, would have repealed this law. However, the Senate Committee attempted to reach a formula whereby the heirs and legatees would be treated fairly, yet at the same time the Yakima Tribes would be able to continue their very commendable program of maintaining a tribal land base within the reservation. Therefore, the Senate adopted a substitute which would have protected an individual's right to be compensated for an interest which, under the present law, he would lose if he does not qualify as a Yakima Indian. In effect, what the Senate provided was an option for the Tribes to pay the heir in lieu of having the property passed to him. If the Tribes choose not to pay, then the property would pass under State law. In addition, a surviving spouse who is prohibited from acquiring an interest by devise or inheritance is given the additional option of preserving a life estate in one-half of the interest acquired by the Tribes.

The Conference Committee adopted substantially the formula recommended by the Senate with modifications, one of which will be of benefit to the Tribes in planning for their land consolidation program. This gives the Tribes at least two years to budget for the funds necessary to carry out their program.

I think the solution is in the highest tradition of the legislative process, and I commend my colleagues in both the House and the Senate for their cooperation.

I move the adoption of the conference report.

Mr. President, that concludes the statement of the Senator from Washington.

I move the adoption of the conference report.

The motion was agreed to.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

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

The PRESIDING OFFICER. The pending business is the conference report on the Department of Transportation.

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. BAYH. 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. BAYH. Mr. President, the SST program has been attacked on grounds that supporting it represents a distortion of national priorities, that it would be excessively noisy, and that it would threaten permanent damage to the earth's environment. The aviation industry, on the other hand, has, by and large, enthusiastically supported the undertaking.

The SST poses a problem that is largely new in aviation technology. Until the SST, technological innovation in air transportation has typically combined improved quality of service in speed, comfort, and so forth, with reduced costs per seat-mile; in few prior cases has innovation brought about decreased economic efficiency. At least since the introduction of the DC–3 in the 1930's the American aircraft industry has played a major role in supplying the world's airlines with flight equipment. Since World War II with the introduction first of the large four-engined piston aircraft and then with the introduction of jet transports, the American aircraft industry has dominated the airways of the free world. This dominance has been developed, largely through the combination of designing technically superior aircraft and producing them in large enough volumes and with sufficient efficiency to make it possible for them to be operated more economically than their foreign rivals. Each new model typically was technically better and more economical than its predecessor.

With the SST the situation is very different and in a crucial way. Whereas it will offer many important technical advances and will, if it is produced, be a monument to sophisticated design and production capabilities of the American industry, it is expected, even by its most enthusiastic supporters, to be more costly per seat-mile than the subsonic jets it is intended to replace.

Its chief advantage will, of course, be its great speed; it is expected to cruise at nearly three times the speed of present jets. Yet, partly because only a fraction of the time in any door-to-door trip is spent in cruising, there is no conviction, even within the airline industry, that the bulk of air travelers will be willing to pay the additional cost of achieving such a speed advantage.

The problem is further complicated by two important facts: Whatever the diseconomies of an SST, other countries

have undertaken to subsidize development of SST's of their own. This is seen as a threat to the leadership of the American aviation industry. Second, our aerospace industry is presently facing a reduction in Federal expenditures for space and for strategic arms. Some substantial—but difficult to measure—portion of the production efficiency of the U.S. aircraft manufacturers derives from military programs. With or without subsidization of a U.S. SST, aircraft manufacturers are likely to have difficulties over the next few years.

Should the U.S. industry wait until the technology has advanced to a point where a technically superior and more efficient vehicle can be designed and produced by the private sector alone? Can it afford to wait in light of the threats from abroad and from the shifts in Federal expenditures? Should the Government let the industry wait out its fortunes? The aviation industry has said no, it cannot wait and it must have public support if American aircraft manufacturers and airlines are to maintain their vitality and their world leadership.

The aviation industry's argument is basically that the Concorde—the British-French SST—is inevitable; that a Soviet SST is probable; that if either does appear in the world market, the United States and world air carriers will have to buy the foreign SST and displace U.S. built subsonic aircraft. As a consequence, in the absence of a U.S. SST, the United States will lose its leadership in world aviation. Further, the only way to avoid these consequences is through the development of an American SST, that will either permit the United States to recapture the SST market, or, hopefully, will preempt much of the market and soon relegate the Concorde to premature obsolescence, more or less as the U.S. jets did the Comet.

In my judgment there are several things wrong with this line of reasoning:

Neither the Concorde nor a Soviet SST is inevitable as an important commercial airliner.

Even if they are produced it will not be necessary for American or foreign carriers to buy them, certainly not for most of their operations.

Whether, even if there is a technically successful foreign SST, the United States will suffer aviation losses will depend primarily on U.S. Government policy.

Finally, the development of an American SST—under anything like the planned program—will probably have adverse effects on American aviation leadership and on the U.S. aviation industries.

Let us look at these points in turn, Mr. President; I think they make a valid rebuttal to the question and concern raised by the aviation industry.

WHAT ABOUT FOREIGN SST'S?

The combined British-French Concorde project is well advanced, the aircraft is undergoing flight tests now. The Soviet Union is reported to have a commercial SST in flight test also. Thus, both the British-French and the Russian SST's are well ahead of the United States in prototype development. The first flight of the U.S. SST is not expected until early 1973. However, both aircraft are expected to be small and with limited range and are expected to be inefficient. Although it is probable that either or both aircraft will evolve into technically adequate vehicles, it is by no means certain that they will. Little can be determined, of course, about Russian intentions, but the British have for many years been skeptical about the wisdom of developing the Concorde. One of the first acts of the Wilson Government was an unsuccessful attempt to cancel the program. DeGaulle's Government refused to let the British out of the contract, which the Conservatives had signed without a cancellation clause. Recently there has been criticism of the sonic boom generated by the Concorde in its trial runs and there was a particularly accute outcry a few weeks ago over the noise it made when weather forced it to land at London's Heathrow Airport—approaching at subsonic speeds, of course.

Recently, doubts have been expressed publicly in France. According to the Washington Post, September 28, 1970, Charles de Chambrun, formerly a junior minister under DeGaulle, has "charged that the Concorde was killing the French aircraft industry—however, there is no indication the criticism is making any impact on President Pompidou." The same article refers to "reports from London that the Tory government is eager to cancel the Concorde."

Mr. President, I ask unanimous consent that a letter from Prof. Alan Walters of the London School of Economics, a noted authority on the economics of air transportation, be printed in the RECORD at this point in my remarks. Dr. Walters points out that the threat to America's preeminent position in the world marketplace from the Concorde is more imagined than real. He goes on to say, with some envy:

That the sad tale of Concorde can bring only a mixture of delight and relief to those taxpayers in the United States who have been spared the astronomical sum required to finance this madness.

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

THE LONDON SCHOOL OF ECONOMICS AND POLITICAL SCIENCE,
Aldwych, London.

I should have thought that the sad tale of Concorde can bring only a mixture of delight and relief to those taxpayers in the United States who have been spared the astronomical sum required to finance this madness. The situation is simply that the most optimistic estimates of the payload suggest that the aircraft will never be commercially viable and you must know, as I think everyone knows, that a very small variation in a payload of 4% or 5% is quite critical. The economic studies all point to a dismal commercial performance. The combination of high fares and cramped interior is thought to be a peculiarly unattractive one. Furthermore, airlines feel that by flying the Concorde they may only eat into some of their first class traffic. I cannot conceivably see how America will lose its "pre-eminent position in the market-place" to Concorde.

I had hopes that the present government would come to its senses and cut the whole programme. However, the recent support for Rolls-Royce in their RB211 programme gives one cause to wonder whether the government ever will mean what it says about not subsidising the aircraft industry. I suspect, therefore, that Concorde, if it is not scrapped, will limp along to be one more of the great white elephants of the British Aircraft Industry. I only hope it does not become another Comet; but with the new technology one can, of course, never guarantee these things.

Yours sincerely,

A. A. WALTERS.

Mr. BAYH. Mr. President, the British and French have deferred a decision to authorize production of four new Concordes—until information about its commercial prospects can be assessed.

I ask unanimous consent to have printed in the RECORD an excerpt from an article entitled "Plan To Build Four Concordes Is Deferred," published in the Washington Post of December 16.

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

PLAN TO BUILD FOUR CONCORDES IS DEFERRED

LONDON, December 15.—The British and French ministers responsible for the Concorde supersonic jet project refused today to authorize production of four more aircraft until the commercial future of the $2 billion project is clearer.

Mr. BAYH. Ever since the mid-1950's, U.S. aviation enthusiasts have forecast Soviet "penetration" of aircraft markets throughout the world. To date, Soviet commercial transports have all been markedly inferior to United States, British, and French products. This obviously does not insure that they will not someday build a superior commercial aircraft, but it does mean that there is no assurance that they will. Further, as will be developed below, technical considerations will not be the determinants of the extent of foreign operation and sales of SST's.

As discussed later, the operational prospects for the Concorde and probably for any Soviet SST depend critically on the fare policy of the United States. The Concorde will be economically viable and commercially a significant threat only if the United States permits indirect subsidization of the Concorde through discriminatory fares. If the British and French had reason to believe that the United States would discourage such discrimination, their willingness to support the Concorde might be further eroded.

The FAA reports a British-French commitment of over 2 billion dollars to the development of the Concorde. The U.S. program is planned to cost $1.3 billion in direct subsidy. Whatever the benefits that might derive from the production of SST's, they are uncertain and will accrue to only a small portion of the population of the respective countries. Yet the activities of each reinforce the commitment of the others.

Senator MUSKIE has proposed a quadrilateral agreement: the United States, Britain, France, and the Soviet Union to discontinue SST development. With support in the U.S. Government, there would have been a reasonable prospect in the 1960's for such an idea or, at least, for cooperative SST development among the United States, Britain, and France.

It is not clear, then, that the United States needs to base its policy decisions

rigidly on the assumption that a foreign SST will be developed and produced in large numbers in the next few years. That may be, but not only is that far from certain, it is of less significance than may at first appear.

DISPLACEMENT OF AMERICAN-BUILT JETS BY A FOREIGN SST

Much of the fear inducing America to raise the priority of the SST above domestic needs reflects the argument that airlines "will have to" buy a foreign SST if one becomes available. Upon examination, this assertion is less than obvious.

The Concorde technically is extremely limited. Internationally, it will be able to fly nonstop only New York-London or New York-Paris, New York-Caracas or similar distances. It will not be able to fly, for example, New York-Rome, Los Angeles-Europe, California-Tokyo, even Chicago-Frankfort. To make any of these longer flights will require at least one stop. Further, present laws and regulations require it to fly at subsonic speeds over land. This means that New York-Rome, Los Angeles-Europe or California-Far East will take virtually as long as, if not longer than, subsonic nonstop flights. Further, although it will have the range to make the flight, the Concorde will not be permitted by the European governments to fly London-Rome or other trans-European flights at supersonic speeds. Except for New York-Miami and California-Hawaii, virtually the whole U.S. domestic market will be foreclosed to effective competition by the Concorde because of the restriction against supersonic flights over populated areas. East of Athens, into Africa and to and from South America it may be possible to fly at supersonic speeds, but again it will frequently be competing with nonstop subsonics, and these markets are relatively thin.

Thus, if travelers are willing to pay the added cost of achieving supersonic speeds with the Concorde, or if fares are so distorted that they do not have to pay the extra cost, there is a place for the Concorde in the international, and possibly a small place in the U.S. domestic market. However, in contrast to the 707, the 747, the DC–10, and the other subsonic jets, the Concorde cannot be widely used throughout much of the networks of the major airlines. Therefore, the airlines will have to retain large numbers of subsonic jets—and if air travel continues to grow, they will have to buy more of them even if the Concorde is introduced. It can never play a role of the 707, becoming the standard vehicle over much of the world's airline network.

The fact that it will have, at most, limited usefulness will impose additional disadvantages on the airlines operating it and, hence, will tend to reduce its ability to penetrate the market. Being suitable for only a relatively few markets, the Concorde will tend to realize relatively low-utilization rates, thus raising the sea-mile capital costs of the operators. By adding to the types of aircraft in airline fleets rather than by replacing an existing type it will increase the complexity and, hence, the cost of fleet maintenance. So far as can be readily determined these arguments apply with equal force to the Soviet SST.

Even if the British and French go through with the Concorde, there will continue to be a demand for U.S.-built subsonic jets into the foreseeable future, so long as air travel continues to grow.

U.S. POLICY IS THE CONTROLLING FACTOR

Although it appears unlikely that there will be a foreign SST that can really force the U.S. subsonics off many of the world routes, it would, of course, be disadvantageous to the U.S. manufacturers to lose even a major portion of those markets in which the Concorde might be technically adequate.

Further, there is a real fear, often expressed by industry representatives, that if, for example, BOAC and Air France begin to operate supersonics on, say, New York-London, the U.S. carriers will have to follow suit. This argument implicitly ignores the critical role of air fares. Whether the Concorde, even if all its problems are solved, can penetrate a substantial portion of the markets for which it will be technically practical is primarily dependent upon fares, and specifically on the U.S. Government's fare policy. The executive and the Civil Aeronautics Board can influence and, in some critical areas, control fares. Within present law, they can do so in such a way as to prevent any SST currently under development anywhere, from forcing the U.S. subsonics out of the domestic American market. Indeed if the CAB where to behave in an equitable and economically rational way, that is exactly what its fare policy would do. Further, the U.S. Government could, in accordance with its laws and present international agreements, influence, if not determine, the extent of use of any SST in international service.

A key element in the discussion of fares is the cost of operating the Concorde relative to the U.S. subsonic jets. It is estimated, for example, that the Concorde would cost about 1½ times as much per seat-mile as would the wide-bodied subsonic jets—the 747, and so forth. These estimates, moreover, leave out of consideration all the cost penalties associated with either the sonic boom or noise, such as added costs resulting from circuitous routing, the imposition of curfews at various airports, the possibility of absolute embargos on the use of the supersonic into or over countries—that is, Switzerland—all of which could complicate scheduling and reduce utilization substantially. Obviously, it would be difficult at best to estimate the extent to which such penalties will be applied and, therefore, their cost implications.

The British Aircraft Corp. is reported—the Washington Post, November 9, 1970, page A6—as estimating that operating costs for the Concorde will exceed those of the 747 by 36 percent. The same source reports that the president of TWA foresees a 30- to 40-percent surcharge over today's fare to make the Concorde profitable to operate. By the time the Concorde is ready for extensive operation in the mid-1970's, the costs of subsonic jets will probably be reduced from present levels, so as to make the percentage differential still larger. Consequently, an assumption that the SST operating costs will be 1⅓ to 1½ times those of subsonics is probably conservative.

Such a cost difference means one of three things: First, direct subsidization of the operation of the SST so that its seat-mile cost to the airlines would be comparable to those of the subsonics. Second, charging a 30- to 50-percent premium for Concorde SST service. Third, to charge the same price per passenger-mile on the SST's as on the subsonics, or a modest differential, such as a 10-percent premium.

The first alternative, direct subsidization, may be a real danger when and if a U.S. SST is developed and produced under present plans. However, although the British and French Governments will have spent billions of dollars on the development of the Concorde and may induce their own airlines to buy it, it seems unreasonable that they will subsidize foreign airlines to operate the Concorde. Similarly, it seem unreasonable to expect the Russians to develop an effective program for subsidizing many non-Communist airlines. Subsidizing only the purchase of SST's would not be adequate.

The second alternative presents essentially the price policy that should be followed by the CAB and the executive. It is also the economically rational policy for most foreign governments. Such policy would probably result in the Concorde's being a financial failure. However, there appears also to be little interest in the American airlines industry for such a fare structure. There is a widespread belief, nevertheless, that supersonic speed is just not worth what it costs and that too few passengers would be willing to pay a premium proportional to the cost differential. This policy might be supported by some airlines before they have committed themselves to the supersonics. It will certainly be resisted by all the airlines that are ultimately induced to purchase Concordes. Backed by their governments, they can be expected to make every effort to force the third alternative.

The third alternative, charging little or no premium for supersonic service, will thus undoubtedly have a good deal of political support. In the industry there is talk of charging a substantial premium in the first year or two of subsonic operation and then rapidly reducing or eliminating it. The introduction of the SST, then, would tend to prevent or at least retard further reductions in fares. This would occur as follows: Without a substantial premium for supersonic services passengers would, of course, prefer the faster service, forcing airlines—if they could not reduce subsonic fares—to replace subsonic jets with Concordes. As more and more SST's are phased in, the average seat-mile cost of the whole fleet would increase. Consequently, to keep from incurring losses, as the Concorde becomes a larger proportion of the fleet serving particular markets; for example, New York-London, fares will have to rise progressively closer to the passenger-mile costs of the SST—or to decline less than they otherwise could. The volume of international air travel appears to be highly sensitive to fares.

Therefore, any increase in fares will cause a reduction in the number of passenger-miles sold; or, in more realistic terms, any retardation in or reversal of the downward trend of fares will reduce the rate of growth of air transportation. This is perhaps the most important economic fact in the whole SST debate so far as the welfare of the U.S. aviation industry is concerned.

An extensive analysis of fares in the North Atlantic, where the competition of the Concorde would be most severe, concluded that each 1-percent increase in fares tends to cause a 2-percent decrease in traffic, and each 1-percent decrease in fares tends to cause a 2-percent increase in traffic. Taking this estimate of elasticity, if, as a result of the limited introduction of the Concorde, fares were raised in the North Atlantic an average of only 20 percent, the traffic would be reduced by roughly 40 percent. If this were an overestimate of the "elasticity" by a factor of 2, which almost certainly far exceeds any error in the study, or, if we assume that the greater speed of the Concorde would offset half the effect of the price increase—if the advantages of supersonic speed were to offset entirely the effect of the price increase, there would be little basis for not directly introducing the second alternative—a 20-percent increase in fares would mean traffic would be about 20-percent below what it would be otherwise.

It seems inevitable that if the initial Concorde fares are too low to cover its costs, a chain reaction will be introduced that will force most fares in the North Atlantic up over a period of a very few years. If this happens, the traffic on the Atlantic will fall below its potential, to the detriment of American carriers. Unless the U.S. Government wants to see this, it should take steps to assure that the Concorde fares are high enough to pay its full cost. Although there are severe limitations on the ability of the U.S. Government, under present law, to control the level of international fares, as clearly demonstrated in the "crisis" of 1963, the United States does have great power to influence both the level and the structure of those rates, as was demonstrated by the fares introduced in the summer of 1964.

Whatever the difficulties of influencing fares internationally, the CAB clearly has the power to set rates domestically. It could and should—in the public interest—set rates such that the Concorde is required to compete without hidden subsidy. It would then be precluded from even those domestic operations for which it would be technically adequate; any aircraft precluded from a market as large as the U.S. domestic market will have a serious handicap in world aviation.

What, then, of the argument that the airlines of the world will "have to" replace American-built subsonics with the Concorde unless the United States builds its own SST? There is still some prospect that the Concorde will never be produced. If a Soviet aircraft is produced, its efficiency and other qualities may not be up to Western standards; in any event it is expected to be small and inefficient. Even assuming that all the technical, economic, financial, and political problems of producing it are solved, the Concorde, being forced to stop en route and to fly at subsonic speeds over populated areas, will have little time advantage over nonstop subsonic operations in the long-haul markets. So, even if the implementation of appropriate fare policy is prevented, the vehicle will be of limited usefulness. If equitable and efficient fare policies are introduced domestically in the United States, the high cost of Concorde operations will preclude it from those few domestic markets for which it is technically adequate. If such appropriate rates are also introduced internationally, it will be restricted by market forces to very small first-class operations in a few major markets. That is the size of the Concorde threat to American aviation.

DEVELOPING A U.S. SST WILL ADVERSELY AFFECT U.S. AVIATION LEADERSHIP

The prospect of a Concorde, or possibly even of a Soviet SST is not a serious or unavoidable threat to American aviation supremacy. If a foreign SST of something like present designs is developed, the United States has effective and efficient policy options for protecting the interests of American aviation without investing over a billion dollars of Federal money in its own new SST. Public indications now that the United States would pursue such a policy might help forestall the costly development of SST's abroad. The fare policy I have recommended here is not a policy of discriminating against a foreign-built aircraft, nor is it contrary to the interests of most of the other countries of the world. It is a policy of preventing discrimination in fares against travelers flying the subsonic jets and, hence, is in the interest of the bulk of travelers of all nations. It is also in accordance with sound principles of rate regulation. Just as it will protect the interests of American air carriers by precluding the need to take on the great financial burden of a highly inefficient $20 million aircraft, it will protect the airlines of other countries from the same pressures.

If the United States pursues the fare policy I have suggested, the subsidized development of a U.S. SST is not necessary to protect American aviation from the threat of a foreign SST. Even if the United States permits discrimination against the subsonic jets, the Concorde will penetrate only a small fraction of the market. In either event, the development of the U.S. SST under forced draft is likely to affect U.S. aviation adversely.

The U.S. SST is expected, if its technical problems can be overcome—and that is still a large "if"—to be a more efficient vehicle than the Concorde or the Soviet SST. It will be faster in cruising, it will be much larger, it will have fewer range disadvantages than the Concorde, its seat-mile costs are expected to be significantly less than those of the Concorde. It is intended to have greater growth potential than the Concorde. Yet, its advocates still do not think it is good enough to be produced without government subsidy. One reason for that is that while it will be more efficient than the Concorde, it is expected to less efficient, that is, more costly per seat-mile, than the subsonic jets that will be flying by the time the U.S. SST could be operating in large numbers.

At present, the FAA estimates that the seat-mile costs of the SST will approximate those of present subsonic jets at maximum range. They will be higher at shorter ranges and, of course, wherever the SST has to fly at subsonic speeds, that is, over populated areas according to present laws and regulations. Thus, its average cost, even by FAA estimates will exceed those of present jets. However, there are two additional problems. Cost estimates of new aircraft and other highly complex equipment have traditionally and understandably been highly optimistic; that may be true again here. More certainly in the 8 or 10 years before the SST is in extensive service, there will be improvements in the new wide-bodies subsonic jets which will reduce their operating costs. Historically, this has been the pattern with each new type of aircraft. Further, there are significant uncertainties associated with the SST. Not all of its technical problems may prove solvable without added cost; additional restrictions on its use, for example, restricting airport operations at night, may be imposed, raising its operating costs further relative to those of subsonic equipment. Consequently, it seems reasonable to suppose that the SST will be substantially more costly per seat-mile than the then-existing fleet of subsonic jets.

The basic economic fact about the U.S. SST is that if it were expected to be economical, there would be no need to subsidize it. A number of arguments have been raised by its advocates to dispute this: that the investment is too large for the private sector and that it is too risky. The argument that the investment required for its development and early production is so great as to require subsidy is, at best, weak. One can readily imagine that combinations of the great financial institutions could readily provide the few billion dollars thought to be required. The auto manufacturers, for example, raise $500 million annually for model changes. The fact that the very large financial institutions appear not to be interested in financing this particular venture, simply shows that the SST is not a good economic risk. The argument that the undertaking is too risky, rather than too costly, to justify private sources in providing the necessary funds is basically just a restatement that the prospects are not good enough to justify the costs and uncertainties. Thus, both the current cost estimates, realistically interpreted, and the arguments for subsidy indicate that the SST as it can be developed from the present technological base will be a high-cost, inefficient vehicle.

In broad terms, the discussion about fares and the Concorde applies to the U.S. SST as well, wherever it may be permitted to fly. Again, the appropriate rate policy could be to require a fare premium reflecting the cost differential between the supersonic and the subsonic vehicles. If the fares were set 20–30 percent above the corresponding fares of

the subsonics, passengers on the SST would pay for the speed advantage and travelers at subsonic speeds would not have to subsidize SST operations through excessive fares; the advantages of each type of service would be available to passengers in accordance with their willingness to pay. However, even in the expectations of the SST advocates, this would visit financial disaster on the whole venture.

Aviation experts simply do not believe that, to most travelers, supersonic speed will be worth what it costs. It will be far harder politically for the U.S. Government to insist on economically sound pricing for U.S. SST services than for those of a foreign-built vehicle. Once the Government has subsidized its creation, and in various ways induced American and foreign carriers to buy it, to let the U.S. SST prove a financial failure would be, to say the least, politically difficult. To retain the appearance that the American taxpayers are recouping their investment in the SST, the Government will be under great pressure to force many of the same individuals to subsidize the SST through excessive fares.

If, as is to be expected, there is little or no fare differential, travelers will presumably prefer the time saving and fly on the SST. Payloads on subsonics will tend to be depressed. Their early retirement from the affected routes will be forced on the industry. A larger and larger proportion of at least the transocean fleets will become supersonic, and, hence, to avoid losses, the fares on those services will have to approach the seat-mile costs of the SST. Thus, such a fare policy will, almost certainly, force fares on virtually all types of aircraft substantially above the level to which they would otherwise fall.

Given the effect of the SST upon fares, the claims of "success" for the SST appear inflated. First and most obvious, there will be less air travel than otherwise. This is true no matter what the elasticity of demand—so long as one does not accept the obviously implausible position that in this one instance, demand is entirely insensitive to price. The more elastic the demand the greater the depressing effect on traffic.

If air travel is constricted there will be less employment in the airlines, less demand for aircraft and, hence, possibly less employment in the aircraft industry.

If the price elasticity of demand, after allowing for the advantages of extra speed, is only unity—a 1-percent increase in fares causes a 1-percent decrease in traffic—a 30-percent increase relative to what they could otherwise be, would force about a 30-percent contraction in volume of traffic and roughly comparable reductions in the demand for labor and aircraft. If price elasticity is greater, as is not unreasonable to expect the effects will be even greater.

These are the obvious direct consequences for the aviation industry if we were to assume a technically successful SST program—an assumption I am not yet prepared to make. There are other consequences. The subsonics will be displaced at a faster rate than would otherwise be the case. Accelerating the obsolescence of the new wide-bodied and other subsonics will increase interest and depreciation charges or equipment writeoffs, reducing airline profits. The financial problems of the airlines will be aggravated. Their debt is now at historic highs: major carriers are operating at large losses, and this trend is expected to continue. To burden present operations and financing with the prospect of billions of dollars of additional investment for a basically inefficient vehicle seems imprudent, to say the least.

Mr. President, the slump in air travel has caused the airlines to cut back on capital investments—if they cannot afford the 747 and others, how can they be expected to invest in the SST?

I ask unanimous consent to have printed in the RECORD an article on this subject published in the New York Times of October 16, 1970.

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

JET-ORDER REVIEW BY AIRLINES SEEN—OFFICIAL AT AMERICAN CITES SLUMP IN AIR TRAVEL

(By Robert Lindsey)

An American Airlines executive said yesterday that the continuing slump in air travel was prompting the nation's airlines to review orders for large jet airliners creating a situation that may add further problems for the aerospace industry.

Donald Lloyd-Jones, senior vice president-finance, said his company had not delayed delivery of any new planes. But he estimated, based on discussions with officials at other lines, that the trunk airline industry might have postponed delivery of 15 wide-body jets scheduled for delivery in 1971 and 1972.

One airline, United, subsequently acknowledged it delayed delivery of Boeing 747's it had on order.

FORECAST PESSIMISTIC

In a generally pessimistic forecast to the press on the airlines' prospects next year, Mr. Lloyd-Jones said that, due to the sluggish economy and financing problems, the 11 United States trunk (long-haul) airlines had decided to postpone $836-million worth of previously planned capital expenditures for aircraft and ground facilities over the next two years.

In 1969, before the airlines' traffic began to slide, he said they contemplated capital expenditures of $2.235-billion in 1971 and $2.448-billion in 1972. Now, he said, projected expenditures in 1971 were $1.71-billion and, in 1972, $1.78-billion.

Over the two years under the figures outlined by Mr. Lloyd-Jones, there would be a slight increase in spending for ground facilities, but $1.84-billion less would be spent on aircraft.

In many cases, airlines have proceeded with plans to acquire new aircraft through leasing arrangements.

Mr. Lloyd-Jones said it was his understanding that up to 15 "firm orders" for wide body jets—apparently Boeing 747's, McDonnell-Douglas DC–10's and Lockheed 1011's—were being renegotiated to permit later deliveries. Under original schedules, 58 of the large jets are scheduled for delivery in 1971.

Mr. Lloyd-Jones did not identify the airlines that he said had delayed deliveries. However, one company, United Air Lines, said yesterday that it had stretched out delivery of 18 747's it had ordered. As now planned, 12 will be in service by the end of this year instead of 14 and the full complement will not be in service until late 1973, a year behind the original timetable.

Mr. Lloyd-Jones, who met with newsmen at the American Airlines executive offices, 633 Third Avenue, said he expected the industry's traffic to pick up this spring, but doubted whether the total revenue passenger mile increase for the year would exceed 1 or 2 per cent.

"We at American are using a zero growth rate for the year for our planning and budgeting purposes," he said.

He said the airlines were cutting costs by sharply reducing flights and by taking other economy measures. But the executive contended that the trunk lines, which he estimated would collectively lose $110 million or more in 1970, needed a 5 to 7 per cent fare increase in 1971 for recovery.

Mr. BAYH. It is not possible to say in advance how the success of a U.S. SST would affect the aircraft industry as a whole. It seems clear that, through manufacturing the SST and its engines, Boeing and GE stand to benefit. By the same token, production and employment in McDonnell-Douglas and Lockheed and in Boeing's own 747, 707, and other subsonic jet production lines will be curtailed, and they will be curtailed faster, the greater the success of the SST program.

This brings me to the final question: American aviation leadership.

Aviation leadership has two relevant components—that of our manufacturers and of our airlines.

To begin with, it is clear that within the aviation community, both at home and abroad, the United States would certainly gain some prestige from producing a superior and ultimately dominant SST. Throughout the world many aviation authorities are afflicted with that form of myopia which prevents their seeing beyond technological advance to the more critical issues of social and economic utility. To such individuals, the introduction of a new, technically superior aircraft seems an end in itself.

The consequences for U.S. leadership in aircraft production, however, go much further. Today the United States has an indisputable lead in conventional subsonic, intermediate, and long-range transports: the world flies American equipment. This lead has been obtained in large part by the steady progression of technological development which has brought both greater speed and greater efficiency in air transportation. This leadership is soundly based on economic reality. To jeopardize this leadership with a speculative program whose economics are so unpromising that the private sector eschews its opportunities to participate fully would be, at best, a questionable choice.

The U.S. airlines enjoy a highly prestigious, traditionally profitable, and socially functional position in international aviation. This, too, is based more on superior economic efficiency than on any other single factor. To try to shift the basis of this leadership to some intangible and rather esoteric advantages associated with the employment of an elegantly inefficient vehicle is, at best, risky. Further, even if the gamble seems worth the taking, the U.S. international carriers will not, in fact, be in a position to introduce SST service internationally much, if any, before foreign carriers.

The FFA in the mid 1960's was careful to ration places in the waiting line for the U.S. SST in a way that would avoid the international repercussions of giving U.S. carriers a promise of an early preponderance of supersonic vehicles. Second, foreign governments will, if necessary to protect the interests of their own airlines, deny U.S. carriers the right to serve their countries. Thus it will be impossible for U.S. airlines, simply because an SST is built in the United States, to have any significant lead in the operation of that vehicle in international air commerce.

Indeed, one can easily foresee a long period of bitter controversy between the United States and its allied and friendly countries over the issue of the SST with certainly some prospect that the network of liberal bilateral agreements, which is the foundation of U.S. international air service, could be dealt a final blow by restrictionist pressures of foreign countries.

CONCLUSION

The federally subsidized development of the U.S. SST is not necessary to protect American aviation interests from foreign SST's now on the horizon. If the U.S. SST is nevertheless introduced and if a sound and equitable fare policy is pursued, it seems likely to be a financial failure, imposing great monetary losses on the Government, the manufacturers, and the airlines. If it is introduced, the political realities are such that it is likely that U.S. fare policy will permit or encourage discrimination in favor of the SST to the detriment of subsonic travel. Even then the consequences are little brighter.

The financial burden on the airlines will be increased, costs of all operations will tend to raise, profits will be put under further pressure, fares for subsonic as well as supersonic travel on long-haul routes will tend to rise—or decline less than would otherwise be possible and profitable. Travel will consequently be curtailed perhaps more than in proportion to the relative increase in fares. Airline operations and employment will decline or grow less than they otherwise would; there might even be a comparable reduction in the demand for aircraft.

The SST clearly is not in the interest of American aviation.

What would be appropriate policy for American aviation interests to recommend? First, it is important to point out that the aircraft industry is facing serious problems, not as a consequence primarily of any developments in the civil air market, but because of shifts and reductions in the nature and level of defense expenditures, especially the secular decline in the procurement of strategic weaponry and space equipment. No policy concerning civil aviation can solve that problem entirely. It is clearly not appropriate to undertake half measures to try to ease problems for some of the aircraft industry at the expense of American aviation interests in general. The problems of unemployment in the aerospace industry must be directly addressed through a national policy of maintaining high levels of employment in general and suitable manpower policies in particular.

Appropriate policy on the SST for most U.S. aviation interests would involve, first, opposing the present program to subsidize the SST. The SST should be allowed to develop in due course as technological advance in various areas and changes in air transport markets reduce the costs and uncertainties now associated with it—or produces other developments that obviate the need for the SST. Second, aviation interest should press for an early statement that American policy on fares will not permit discrimination either against foreign-built vehicles or, more particularly, against travelers using subsonic equipment. Third, support an international agreement to discontinue subsidization of SST development.

In general the self-interest of U.S. airlines and most manufacturers is served by policies that play to their established economic superiority, rather than to the unstructured game of competitive governmental subsidization.

ORDER OF BUSINESS—GERMANENESS RULE

Mr. BAYH. Mr. President, pursuant to the previous unanimous-consent request that the Senator from West Virginia be recognized and that his remarks be contiguous with those previously contained in the RECORD on the Disaster Relief Act, I ask unanimous consent that the Senator from West Virginia be recognized and that I then have the floor upon the termination of his remarks.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STEVENSON). The Senator will state it.

Mr. BAYH. Is the Senator from Indiana correct in his understanding that the Senate, by unanimous consent, agreed to a motion that the Senator from West Virginia be recognized for a period of not to exceed 5 minutes and that this be considered as part of the debate on the Disaster Relief Act, the conference report, which was previously adopted by the Senate?

The PRESIDING OFFICER. There is such an order.

Mr. BAYH. And the Senator from Indiana would not lose his right to the floor?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAYH. I yield to the Senator.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and I do not want to object—the question here is whether or not we are going to waive the rule of germaneness, rule VIII, the so-called Pastore rule. I have talked with the able Senior Senator from West Virginia, and he is willing to wait another 10 minutes, at which time the Pastore rule will have run its course today.

Mr. BAYH. Does the Senator from West Virginia realize that we are talking about another conference report?

Mr. BYRD of West Virginia. Yes.

Mr. BAYH. Which has already been agreed to by the Senate, 30 minutes ago.

Mr. BYRD of West Virginia. Yes. But that is not germane to the business now before the Senate.

Mr. BAYH. May I ask the Senator why that was not a nongermane subject at that time?

Mr. BIBLE. It probably could have been invoked then, but it was not.

Mr. BYRD of West Virginia. Mr. President the waiver of the rule was not included in the unanimous-consent request at that time.

ORDER OF BUSINESS

Mr. BAYH. Mr. President, is it possible now, under the previous order, without losing my right to the floor, to yield to the distinguished Senator from West Virginia (Mr. RANDOLPH), the chairman of the Committee on Public Works?

The PRESIDING OFFICER (Mr. STEVENSON). The period for germaneness has expired.

The Senator from West Virginia (Mr. RANDOLPH) is recognized for 5 minutes.

(The remarks of Senator RANDOLPH appear at the appropriate place in the RECORD.)

Mr. McCLELLAN. Mr. President, will the distinguished Senator from Indiana yield to me without losing his right to the floor so that I may submit a report of the Committee on Government Operations with reference to the TFX airplane? After I submit the report, I should, of course, like to have an opportunity to discuss it. I think that my discussion will not last more than 30 minutes.

Mr. BAYH. Mr. President, I am glad to yield to the Senator from Arkansas.

Mr. COTTON. Mr. President, reserving the right to object, and I have no intention of doing anything to impede the Senator from Arkansas, a unanimous-consent agreement was entered into and not objected to. My recollection is that there was a limitation of time as to how long we were going to debate or discuss the matter that has already been passed.

I am curious to know whether the Senator from Indiana intends to go on after this matter has been taken care of and discuss this conference report that has already been adopted.

We have the spectacle of going on day after day under the eyes of the people. Certainly there would have been objection to that unanimous-consent request if we had not understood that it contained a time limitation.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. Mr. President, was there not a time limitation on the unanimous-consent agreement?

The PRESIDING OFFICER. This is on the conference report on the Department of Transportation bill. The Chair is unaware of any unanimous-consent agreement.

Mr. COTTON. There was a unanimous-consent agreement requested, and quite properly so, by the Senator from Indiana to permit discussion of another report that has already been acted upon.

Mr. BIBLE. The Senator is correct.

Mr. COTTON. And was there not a time limitation?

Mr. BIBLE. There was a limitation of 5 minutes. However, this is a completely unrelated matter. This is the TFX that the Senator from Indiana is discussing. He had regained the floor and had not surrendered it after.

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

Mr. COTTON. I yield.

Mr. BAYH. Mr. President, is the Senator referring to the previous unanimous-consent request I made relative to the Senator from West Virginia?

Mr. COTTON. The Senator is correct.

Mr. BAYH. Mr. President, that matter has already been resolved. I was just alluding to the previous unanimous-consent request which had been accepted by the Senate which permitted the Senator to do the very thing he was doing. However, that matter has been resolved. I have yielded to the Senator from Arkansas.

Mr. COTTON. Mr. President, the Senator from Indiana has again addressed the Chair and has been recognized on a new subject.

Mr. BAYH. I was speaking on the pending order of business on which I have been making a few remarks over the last hour.

The PRESIDING OFFICER. The Sentor from Indiana has never lost the floor.

Is there objection to the request?

Mr. COTTON. I shall not object to this request. I shall object to further requests to permit Senators to move to new subjects and at the same time hold the floor to resume their speech later.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Arkansas.

REPORT ON THE TFX CONTRACT INVESTIGATION

Mr. McCLELLAN. Mr. President, on behalf of the Senate Committee on Government Operations, I submit a report prepared by the Senate Permanent Subcommittee on Investigations, entitled "The TFX Contract Investigation."

The report is a history of the subcommittee's investigation of the TFX aircraft program and covers more than 8 years of arduous work. In December of 1962, we began this long and controversial task, the longest and most unpleasant inquiry ever conducted by the subcommittee.

We were subjected to severe criticism for initiating the investigation, and, as we proceeded, we encountered strong opposition from high quarters of Government. We had to endure heavy pressure from all sides, even within the Congress, from persons who sought to have us limit, curtail, and terminate our examination of the TFX contract award. Columnists and broadcasters wrote and spoke disparagingly of our efforts to disclose the facts. The general public on many occasions was given a distorted view of the subcommittee's intentions and procedures and also was inaccurately and incompletely informed about the executive hearings and the evidence being taken therein about the contract and the aircraft itself.

The subcommittee was not deterred, however, from carrying out its duties and meeting its responsibilities. I am proud and gratified to say that we completed our task; we ascertained, we believe, most of the pertinent facts in spite of all obstacles and deterrents, and we submit them with our conclusions in this report.

THE 1963 HEARINGS

On November 24, 1962, the Department of Defense announced that the General Dynamics Corp., after a year's competition with the Boeing Co., had been selected as the TFX contractor. Our inquiry into the contract award was initiated by a request from Senator HENRY M. JACKSON, who had been informed by the Boeing Co. that its design proposal for the new fighter-bomber had been judged the better of the two by the military Source Selection Board and that its cost proposals were lower.

The subcommittee's staff, examining appropriate documents and records, soon found substantial indication that the sound judgment of the top-ranking military officers and technical experts had been arbitrarily and imprudently overruled by the civilian secretaries, who had decided to buy the second best airplane at the higher price.

The Department of Defense signed the contract with General Dynamics on December 21, 1962, notwithstanding my personal request to Secretary Robert S. McNamara that the contract signing be delayed to permit the subcommittee to conduct its preliminary inquiry. The Pentagon justified the signing by stating that "it was considered to be in the national interest for the program to proceed further without delay." This contention was made in spite of the fact that the program had already been delayed for almost a year during four successive rounds of design competition for the contract. On February 26, 1963, the subcommittee started hearings on the contract decision.

A primary objective of the 1963 hearings was to examine the reasons offered by the civilian Secretaries in the Pentagon in support of their rejection of the military and technical experts' selection of the Boeing design. The reasons, listed in a short memorandum, contended that General Dynamics had offered a superior proposal. The Secretaries said that General Dynamics proposed a better aircraft design, more "cost realism," and more "commonality" between the Air Force and Navy versions of the biservice airplane.

Testimony established, however, that the Secretaries had no detailed studies of the cost or of the technical factors to substantiate or support the reasons which they cited for awarding the contract to General Dynamics. They did not consult with either the military source selection authorities or with the technical staff in the Office of the Secretary of Defense. The record shows that they held only cursory discussions on the merits of the competing designs, and that the memorandum justifying the award was prepared days after the decision was made. The subcommittee's report shows that two of the principals in the decision, Deputy Secretary Roswell Gilpatric and Navy Secretary Fred Korth, had such close prior ties with the General Dynamics Corp. that they should have disqualified themselves from taking part in the decision.

In fact, Secretary Korth resigned his position as Secretary of the Navy after certain disclosures were imminent.

The civilian Secretaries, testifying at length under oath in the 1963 hearings, maintained that the "memorandum for the record" gave the true reasons for their decision in selecting General Dynamics. They insisted that their choice was a matter of judgment. In relation to costs, for example, Secretary McNamara stated that he had no financial records to substantiate his view that General Dynamics offered more "cost realism." He said, instead, that he had made a "rough judgment" and that he had the figures in his head. The subcommittee, having disclosed in the public record the facts about the decision which were then available, recessed the hearings in November of 1963 to await the results of the Secretaries' judgment.

THE F–111 RESEARCH AND DEVELOPMENT PROGRAM

The subcommittee, during the intervening years, continued its inquiry into the F–111, as the TFX came to be known. Our report shows that, from the start of research and development, General Dynamics had serious problems with F–111 aerodynamics and weight growth. By February of 1964, the Navy found the problems so serious that it concluded that the F–111B, the Navy version, would be unacceptable as a carrier-based fighter. The Navy recommended a halt in production of test aircraft.

Navy experts called for a complete redesign, without the restrictions of commonality with the Air Force version. The civilian Secretaries rejected the Navy's plea, and the commonality requirement was maintained.

In July of 1964, the Navy again recommended that the F–111B undergo redesign, after more evidence showed that the Navy plane would be unsatisfactory. The Secretaries again rejected the Navy recommendation. In the fall of 1964, technical experts in the office of the Secretary of Defense predicted that the F–111B would be unsatisfactory. The advice was ignored; the program was continued, and the principle of commonality was maintained.

Our report shows that the only action taken on the serious problems of the Navy plane in 1965 and 1966 was a series of studies. Meanwhile, hundreds of millions of dollars were being spent and wasted in the futile attempt to produce a satisfactory F–111B which was fatally burdened with the commonality concept.

Also in 1965 and 1966, as our report states, the F–111 flight tests showed serious deficiencies in range and performance, attributable to the weight growth and aerodynamics problems disclosed at the start of the program in 1963. Furthermore, all F–111's had engine stall problems caused by a poorly designed air inlet. Serious problems notwithstanding,

production of the airplanes was authorized in April of 1965.

During the summer of 1966, the hard facts of failure finally were recognized throughout the Pentagon. Although small improvements had been effected by the contractor, both Air Force and Navy airplanes fell far short of the services' operational requirements. Production aircraft were being built without solution of the air inlet problem. The program was headed for disaster, while grossly deficient airplanes were rolling down the production line. In August of 1966, Secretary of Defense McNamara personally assumed management of the F–111 program. He initited a series of meetings called Project Icarus.

PROJECT ICARUS

The Icarus meetings, attended by the top officials and engineers of the contractors and by the civilian Secretaries of the Pentagon, were held in the Pentagon, generally on a biweekly basis, for almost 2 years. In the beginning, the Secretaries "managed" the F–111 program without advice and counsel from Air Force and Navy program managers. After some months, the military experts were permitted to attend as observers but generally did not participate in discussions or decisions.

The subcommittee's report shows that the civilian secretaries wandered in a maze of technical design problems, discussing them in great detail at meeting after meeting. The only design changes they ever approved were "fixes" to the Navy plane that were supposed to enable it to operate from aircraft carriers. All these changes decreased commonality with the Air Force version—the first admission at high levels in the Pentagon that the commonality concept had failed.

The major effect of Project Icarus obviously was to waste time of the contractors and the services' technical experts. In December of 1966, the president of General Dynamics complained at an Icarus meeting that he did not have enough time between meetings to solve the problems of the airplanes.

The Project Icarus principals sidestepped a major management decision in the spring of 1967. In April of that year, an Air Force study warned of inherent structural weaknesses in the F–111's. In May, the chief inlet designer of the Air Force recommended a major change to the F–111 inlet. Dr. Foster, of Defense Research and Engineering, recommended stopping the production line for 6 months. His advice was ignored, the decision to stop production was not made, and the F–111A continued to move along the assembly line. As a consequence of that failure to act, our Air Force arsenal is now saddled with 141 F–111A airplanes with deficient air intakes and a history of structural failures and groundings.

THE RESULTS OF THE TFX PROGRAM

Originally, the TFX program called for 1,726 airplanes at a cost of $5.8 billion, an average per plane of $3.4 million. The Air Force was to receive 1,473 production F–111's to use as its only tactical fighter during the late 1960's and throughout the 1970's. The Navy was to receive 231 production F–111B's, to use as the sole Navy fighter on carriers from 1968 through 1975.

Present planning calls for the F–111 program to end in 1972 with a total of 538 airplanes to be built at total costs of at least $7.9 billion. This is $2.1 billion more than the original estimated cost of the 1,726 planes and the average cost, on that basis, is almost $15 million per plane, more than four times the original unit cost estimate.

The report summarizes other results of the F–111 program. The 141 F–111A's, produced prematurely in a deficient configuration, have an inadequate air inlet design; they are underpowered because of excessive weight growth and because their tactical mission emphasis was changed from nuclear to conventional bombs; their avionics are below the state of the art; they have had structural problems, and they have a high "wing loading" which restricts their maneuverability for the tactical fighter mission. Two other F–111 models—the D and E versions—have deficiencies in some degree. By September of 1971, the Air Force will have 96 F–111D's and 94 F–111E's. At that time, the contractor will produce the F–111F version, which will have most of the characteristics originally desired for the Air Force TFX: high power, modern avionics, and long range. However, it will lack the maneuverability to be an air-to-air fighter, an original objective of the TFX program. When the contractor begins to produce the F–111F, most of the money available for the program will have been spent, and therefore the Air Force can afford to purchase only 82 F–111F's.

This unfortunate and wasteful consequence of an arbitrary and imprudent decision to rush into production with a deficient aircraft is directly attributable to Secretary of Defense Robert McNamara and his service secretaries. They received clear warnings of impending disaster on a number of occasions over a period of years. Nonetheless, they plunged ahead with the production of hundreds of aircraft which they knew lacked the capabilities originally promised and originally contracted for. We will have 538 F–111's when the production line stops, and 456 of them will fall far short of providing most of the characteristics and capabilities called for in the specifications.

Among the 456 deficient aircraft will be 76 of the FB–111 strategic bombers. Mr. McNamara, with great fanfare, announced in December of 1965 that he intended to build the FB–111, which he said would give the Strategic Air Command a a bomber far better than the existing B–52's and B–58's. This announcement came at a time when he and all top-level civilians in the Pentagon knew, or should have known, according to the evidence in the subcommittee's hearings, that the entire F–111 program was in serious and rapidly expanding trouble. However, production went ahead, and the resulting FB–111 aircraft fell so far short of the range capability Secretary McNamara promised that orders for the bomber version were cut from 263 originally planned to 76 produced. Meanwhile, the costs of this version, as for all F–111's, skyrocketed.

Mr. President, there are 24 Australian F–111's in mothballs at the General Dynamics plant in Texas. The Australians haven't decided that they want the planes. Our Air Force may eventually take over 24 more deficient F–111's.

Additionally, we spent $145 million for engineering of a British version, the F–111K, and for two reconnaissance versions called RF–111's. None of these planes were produced; all were canceled; the money was wasted.

The other version, the Navy's F–111B, proved the most costly failure of all. That attempt to produce a successful Navy fighter was a complete disaster, and our report shows that the waste of $378 million of the taxpayers' money was not the fault of the Navy, whose technical experts insisted from February 1964 that the aircraft would prove unsuitable for use on carriers. The many repeated warnings of the Navy's experts were ignored at the top level of the Pentagon. The Navy repeatedly recommended design changes which would have greatly reduced the commonality factor, but the recommendations were rejected. Commonality had to be preserved, and as a consequence, $378 million was thrown away on a worthless aircraft.

In fact, Mr. President, it was not the Pentagon at all which eventually canceled the Navy TFX. In the summer of 1968, when the Defense Department budget request included many more millions for research and development and even production funds for the Navy plane, the Congress had to take the action obviously needed and long delayed. The Congress cancelled the F–111B program.

The costs of the failure are not reflected alone in the waste of $378 million. The Navy suffered a delay of 6 years in starting a new fighter to replace the F–4. An indirect penalty, but perhaps the most important one in terms of our national defense, is inherent in the design of the Air Force F–111's. The requirement for commonality, which was strictly enforced until the cancellation of the Navy plane in 1968, imposed severe penalties upon the configuration and structure of every single Air Force F–111. The fact that the Air Force does not have the airplane it wanted and needed is the final irony in the cancellation of the Navy version and the termination of the commonality requirement.

The Permanent Subcommittee on Investigations played an important role in congressional action which cancelled the Navy plane. In the summer of 1967, the subcommittee's staff developed and documented the complete history of the F–111B, working with the staff of the Senate Appropriations Committee. All of the aircraft's fatal deficiencies were disclosed in July of 1967 in a special hearing of the Department of Defense Subcommittee of the Appropriations Committee. At that hearing, over which I presided as chairman, the Department of Defense admitted for the first time that the Navy TFX was not suitable for carrier operations. A similar hearing, relating to the Air Force plane, was held in

1969, and again the staff of the Investigations Subcommittee, working with the Appropriations staff, prepared the background and documentation which established that the Air Force F–111, in all versions, fell far short of the capabilities proclaimed for it in 1962 and 1963 by Secretary McNamara and his civilian aides.

Furthermore, Mr. President, the report shows that the Government's interests were almost completely unprotected in the TFX contract. Evidence disclosed that the word "guaranteed" used in relation to performance characteristics was only window dressing. There were no binding provisions for performance of the guarantees and, moreover, penalties for failure to perform were negligible or omitted. As the subcommittee's report says:

> The most powerful leverage that the government can exert to compel a contractor to meet his obligations is the use of the default provision to terminate the contract for cause. In this case, in spite of the fact that the government knew or should have known that actual performance of the plane was going to be far below that specified; in spite of the fact that other severe technical problems had emerged; in spite of the fact that the Navy had recommended a stop work order, the civilian authorities signed a formal contract in 1964 in which they knowingly accepted terms which made termination for default impossible.

THE SUBCOMMITTEE'S CONCLUSIONS

The subcommittee's report finds five major errors in the management of the TFX program.

First. The original decision by Secretary of Defense Robert McNamara to produce a single aircraft to carry out multiple missions was wrong.

Second. The decision to choose the second-best TFX design at the higher price was wrong.

Third. The failure to heed many warnings that the Navy plane would be a failure cost hundreds of millions of dollars and severely impaired our Nation's defense posture.

Fourth. Secretary McNamara's decision to manage the program himself, via Project Icarus, showed a lack of perception of the disaster that loomed ahead.

Fifth. The rush to produce F–111A planes in April of 1967, when the aircraft was in serious technical difficulties, was imprudent for many reasons, not the least of which was the expenditure of most of the money in the program for the production of deficient aircraft.

All the errors noted above were poor management decisions. Had Secretary McNamara and his aides accepted the advice of their military and technical experts, offered so many times, the TFX program could have produced aircraft of operational value.

The subcommittee concludes that the TFX program has been a failure. More than half a billion dollars was wasted. Our national defense posture has suffered. These direct effects of the TFX fiasco have been serious and damaging. However, the subcommitee's report points out another effect, perhaps most important of all. I quote the language of the report:

> Understandably, this sorry record has done nothing to enhance public confidence in the integrity and competence of the people who are charged with preserving the national security. Nor has it improved the public image of the Department of Defense.

The subcommittee believes that measures announced by the Pentagon to decentralize the management system, to properly assess program status and progress, and to correct other problems disclosed by the record of the TFX case, can lead to improvements in weapons acquision and in management within the Pentagon.

The errors and blunders of the TFX program, however, could be repeated. A major finding of our report is that Congress must not hesitate, in exercising its oversight function, to scrutinize carefully the procurement procedures, decisions and programs of the Pentagon and other Federal agencies. Congress must always guard against repetition of the disastrous mismanagement which attended the TFX program from its inception.

In conclusion, Mr. President, I would like to state that this report is signed by eight of the nine members of the subcommittee. When it was presented to the full committee, with a quorum present, there was not a dissenting vote in authorizing the report to be submitted.

This has been a long, drawnout investigation. It was on December 4, 1962, just a little more than 8 years ago, that I was asked, as chairman, to initiate a preliminary investigation into the award of this contract. During that 8-year period we have held many long days of hearings. We have compiled a very voluminous record, not only of testimony but also of documents that have been made a part of the record. I believe that an objective review or analysis of those hearings will fully substantiate and sustain every comment made in the report that is being filed today.

This committee could not have performed this service as well or as creditably as it has without a competent and dedicated staff. We are fortunate to have such a staff on this committee and to have had such a staff during the years I have served as chairman of the committee. With their diligence and their competence to pursue leads and clues, to examine records and verify figures, and to make an accounting of what they found, we have been able to place in the RECORD the facts that I think cannot be refuted. In my judgment they will not be challenged successfully.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the following material: A table showing total numbers of all versions of F–111 aircraft, a table entitled "Navy Plane," a table entitled "Air Force Plane," a table entitled "1962 TFX Cost Estimates," and a table entitled "1970 TFX Program Cost Estimates."

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

Total numbers: All versions of F–111 aircraft

Air Force F–111A	141
Australian F–111C	24
Air Force F–111D	96
Air Force F–111E	94
Air Force F–111F (reduced from 98)	82
SAC Bomber FB–111	76
RDT&E Air Force	18
RDT&E Navy	5
F–111B Navy production planes to be used for test purposes	2
Total	538

Reference: Page 306, part 2, 1970 hearings. (Since the hearing on March 25, 1970, the F–111F total has been set at 82 instead of 98. Further, the 7 Navy planes are not mentioned on page 306.)

NAVY PLANE—F–111B SPECIFIED PERFORMANCE VERSUS ACTUAL CAPABILITY

	Specification performance	Actual performance	Deficiency (percent)
Weight empty	38,804 lbs	46,112	20
Maximum speed	2.5 mach	2.2	12
Loiter altitude	35,000 ft	30,000	14
Combat ceiling	55,000 ft	44,000	20
Loiter time:			
150 miles [1]	3.5 hrs	3.0	14
150 miles [2]	4 hrs	3.4	15
750 miles [2]	1 hrs	.5	50
Takeoff distance	2,200 ft	[3]	
Single engine climb	595 ft./min	[4]	[4]
Launch wind over deck	−8 kts	+19	[5]
Recovery wind over deck.	+5 kts	+12	[6]
Takeoff weight	62,788 lbs	79,000	26
Not covered in 1967 testimony:			
Acceleration time, M=.6 to M=2.	5.5 mins	10.0	[7] 80
Approach speed	113 kts	Unknown	

[1] Loiter in a configuration which will provide 2 g. maneuverability.
[2] Loiter in a configuration which will provide 1.25 g. maneuverability.
[3] Not caculated.
[4] Less than 100, over 85 percent.
[5] 27 knots.
[6] 7 knots.
[7] Over requirement.

AIR FORCE PLANE—F–111A (141 PLANES) SPECIFIED PERFORMANCE VERSUS ACTUAL CAPABILITY

	Specification performance	Actual performance	Deficiency (percent)
Takeoff weight	69,122 lbs	82,500	20
Maximum speed, high altitude.	2.5 mach	2.2	12
Maximum speed, sea level.	1.2 mach	1.2	0
Cruise speed, high altitude.	2.2 mach	2.2	0
Combat ceiling	62,300 ft	58,000	7
Acceleration time, M=0.9 to M=2.2.	1.45 min	4.0	[1] 275
Takeoff distance	2,780 ft	3,550	28
Landing distance	2,250 ft	2,320	3
Supersonic dash distance.	210 mi	30	85
Ferry range	4,180 mi	2,750	34

[1] Over requirement.

Note: Performance of the other versions of the tactical F–111's is classified. However, the performance of the 94 F–111E's, with the same engine, is roughly comparable. The 96 F–111D's, with a slightly more powerful engine, also have similar capabilities. Only the 82 F–111F's will have significantly improved acceleration, and their range capabilities are not improved by the higher thrust engine.

1962 TFX COST ESTIMATES

[This series of figures, extracted from exhibit No. 34, pp. 208–209 of the 1963 hearings, are the contractors' original proposals, as adjusted by the Air Force]

	General Dynamics	The Boeing Co.
Research, testing, development and evaluation	711.2	576.8
Production estimate	5,092.3	4,810.7
Total, program costs	5,803.5	5,387.5

Note: There are other sets of figures, such as the contractors' proposals before adjustments, the Air Force cost estimating standards, but the figures above are those used most frequently in the investigation.

1970 TFX PROGRAM COST ESTIMATES

It is impossible accurately to forecast exact totals to be spent on the F–111 program. The following estimates are taken from Subcommittee charts placed in evidence in the 1970 hearings:

Chart 4, P. 588, Part 3 of the 1970 Hearings	*Billion*
Air Force total estimate as of December 31, 1969. This figure does not include funds wasted on canceled versions	$7.4+
Funds wasted on cancelled versions	.5+
Total (figure for 538 planes used in floor remarks and report; it does not include replenishment spares, certain ground equipment, and extra combat equipment	$7.9+

The unit cost for each plane in this estimate is almost $15 million.

Chart 4, P. 588, Part 3 of the 1970 Hearings	*Billion*
Air Force total program estimate as of December 31, 1969. This figure does not include the funds wasted on cancelled versions; it does, however include replenishment spares, certain ground equipment, and extra combat equipment	$8.65
Funds wasted on cancelled versions	.52
Total Program	$9.2

The unit cost for each plane in this estimate is approximately $16.5 million.

Mr. JACKSON. Mr. President, one of the major attributes of Senator McCLELLAN'S chairmanship of the Senate Permanent Subcommittee on Investigations has been his willingness to undertake investigations that were highly unpopular in some quarters. The inquiry into the TFX aircraft is a case in point. In the face of tremendous adverse pressure from the executive branch of government and from within the Senate, Senator McCLELLAN, exemplifying great personal fortitude and integrity, undertook the TFX investigation.

I know of no investigation in recent history that has been conducted under more adverse conditions. Those responsible for the TFX fiasco were determined to suppress the truth at all costs. But if these gentlemen ever really hoped to succeed in obstructing the subcommittee's work, they sadly underestimated the tenacity and resourcefulness of its chairman, the senior Senator from Arkansas.

It was through Senator McCLELLAN'S determined perseverance and tedious hard work, against every kind of obstacle placed in his way, that the subcommittee has brought to light the compelling facts surrounding the TFX procurement program, and in the process decisively contributed to bringing about a reevaluation of the entire program by the Congress and the executive branch, including the complete cancellation of the F-111B, the Navy version of the plane.

On March 21, 1963, Senator McCLELLAN stated with reference to the TFX issue:

> When all the facts are in, the record will justify the committee's being sustained in the action it has taken.

Mr. President, the facts are now in and they clearly justify Senator McCLELLAN'S pursuit of the truth on the TFX.

The subcommittee's report published today tells it like it was, and I commend to Members of the Senate this case study of an extraordinarily inept exercise in decisionmaking in the upper echelon of the Defense Department.

This TFX report is significant for several reasons. It shows the price we pay for shoddy leadership at the highest levels of Government. As the report makes clear, the errors of judgment involved in the TFX decisions had an enormous impact on our defense effort and resulted in a monumental waste of public funds. Beyond this, the TFX story illustrates the tragic results that accrue when public officials reject professional judgments on technical matters and impose their own preconceived notions of what is right.

The senior Senator from Arkansas has made a notable contribution with this report on the TFX and the years of investigation that preceded it. He and the staff of the subcommittee who worked so long on this project deserve the thanks of the Senate for their efforts.

They have done far more than expose the details of one sorry episode in Federal decisionmaking. A key lesson of the TFX case is that major procurement decisions must be subject to close scrutiny by Congress if the public interest is to be protected. The subcommittee, despite extraordinary and persistent efforts from the executive branch and within the Senate to sidetrack the investigation, has reasserted and established the right of the Congress to oversee the conduct of the public business. Unless the appropriate committees, following this leadership, exercise constant and careful oversight, we are likely to find history repeating itself.

Mr. McCLELLAN. Mr. President, I thank the distinguished Senator from Washington, who is not only my colleague in the Senate but is a Member of the Government Operations Committee and has served with me as a member of the permanent Subcommittee on Investigations. For the past 18 years we have worked together on that subcommittee. We have conducted more than 100 investigations. I can say, without fear of contradiction, that we have saved this Government many hundreds of millions of dollars by exposing corrupt or improper practices and having them corrected. Often, through the subcommittee's work, the Justice Department and other agencies have been able to recover funds and to take needed administrative actions on these matters. Some of our work has never been published, but it has resulted in bringing about greater efficiency and economy in Government.

I can say, and Members of the Senate will bear witness, I am sure, that while I am grateful for the Senator's complimentary remarks about the chairman and the subcommittee, I believe my colleague will agree with me this has been the most unpleasant investigation we have ever conducted in our service on the subcommittee. I know he will verify the statement that I undertook the investigation with great personal reluctance and distress. However, I felt compelled to pursue a course of duty that was unpleasant and in many ways has been unrewarding so far as any personal gratification or satisfaction is concerned.

I felt there had to be some reasonable answers, some reasonable justification that could be accepted for the arbitrary decision to overrule the recommendations of the experts. Our investigation showed that the commonality concept just would not work. It seems to me anybody with any practical judgment—not sophisticated or technical judgment, but just practical judgment—would know that two planes could not be built from the same parts to perform the widely different missions required by the Air Force and the Navy.

I want to express my deep appreciation to Senator JACKSON for the cooperation he has given in the course of these hearings and all subcommittee hearings over the years.

I shall soon turn the responsibility for these investigations over to someone else. Just how soon, I do not know, but the time will come. I hope that history will then reflect and record that this subcommittee has never been vindictive. That has not been its purpose nor its objective. We have simply sought to perform a duty placed on us by the membership of this body to meet certain obligations and to protect the interests of the United States and her people. It is the responsibility of an oversight committee to try to see that greater economy and efficiency are achieved in the administration of our Government. I deeply appreciate the efforts and remarks of my colleague.

Mr. JACKSON. I just want to supplement my remarks by saying that I have served with the able senior Senator from Arkansas on the full Government Operations Committee and this subcommittee, except for a brief period when we were off the subcommittee, for what will be 18 years on January 3. For 16 of the 18 years he has served as chairman of the permanent Subcommittee on Investigations. All during that time, including this particular 8-year investigation, the senior Senator from Arkansas, in my judgment, has exemplified the restraint, the moderation, and the other basic qualities that spell the best in what one might call good judicial temperament.

The senior Senator from Arkansas is a fair man. He is a just man. I must say that what he said a moment ago with reference to the patience we had to exercise and the persistence it took on our part to get answers in this case is exactly correct. There can be no complaints from others in the Senate or from the executive branch on the findings in this report. The chairman, with almost the unanimous support of the subcommittee—one out of the nine did not sign—is submitting a report that should be read by all Members of the Senate.

I get a bit amused, Mr. President, at some of the investigations that have been going on concerning waste in the Defense Department. I have read with interest of the fact that the executive branch officials responsible for those decisions have never appeared before the congressional committees conducting these investigations.

Has anyone ever heard of an investigation of waste in the Defense Department without taking testimony from the decisionmakers who were involved in the

decisions made? There has been a lot of publicity, a lot of talk, and a lot of Johnny-come-lately grandstanding on TV time. But I must say that the only thorough full-scale investigation that has been made, in which the top decision-makers themselves were confronted by the committee, was this particular TFX investigation; and I say, Mr. President, that this inquiry was undertaken at the time when some of the voices in the Senate that are now so strident were mute in the face of the waste and mismanagement that was going on in the Defense Department.

The chairman of this subcommittee, as always, has rendered a great service to the country by issuing today this important report. I cannot praise him too highly for the calm and fair way in which he has handled this entire investigation over a span of 8 years.

Mr. McCLELLAN. I thank my distinguished friend.

I yield briefly to the Senator from Virginia, without relinquishing my right to the floor.

Mr. BYRD of Virginia. Mr. President, I should like to join with the distinguished Senator from Washington in expressing admiration to the Senator from Arkansas for the work that he has done on this TFX program.

Mr. President, it was 6 or maybe 7 years ago that the distinguished senior Senator from Arkansas, in a conversation with me, made the first expression I had heard as to the need to thoroughly investigate this TFX contract and the purposes of the plane.

I began to take an interest in the TFX at that point as a result of my conversation with the distinguished senior Senator from Arkansas, and I have watched, over the past 6 years, the most effective work he has done in this regard.

I feel that the taxpayers of our Nation owe Senator McCLELLAN a great debt of gratitude for the dedicated, efficient, and thoughtful investigations that he has made of this multibillion dollar program.

I might say that at the time that the Senator from Arkansas began this investigation, the program which he was investigating had the full support of the highest officials of our Government, and was a favorite project of the most powerful man in the Department of Defense.

So I am pleased today to make these few remarks to express to the distinguished Senator from Arkansas my keen admiration for him and my gratitude to him for the service that he has rendered our Nation in the thorough investigation he has made of the TFX program. He has saved the taxpayers many, many millions of dollars.

Mr. McCLELLAN. I thank the distinguished Senator from Virginia. I yield now to the distinguished Senator from Arizona, without relinquishing my right to the floor.

Mr. GOLDWATER. Mr. President, I merely wish to add my words of commendation to those already spoken concerning the excellent work that has been done by the distinguished Senator from Arkansas.

I am not surprised that he conducted the examination in such a fashion. This is typical of the way he chairs these subcommittees. I know that because I was privileged to serve 4 years under him on the old Rackets Committee.

I was particularly interested in the comment made by the Senator from Washington relative to the seeming inability of other investigating committees to get the proper people to testify who were really responsible for the problems of the F–111 and the C–5A. With all due respect to my good friend from Wisconsin, whom I see at the front of the Chamber, at least three different times I suggested to him that Robert McNamara be called before his committee on the C–5A, but to my knowledge he was never called before that committee.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. GOLDWATER. When I get through I shall be happy to yield. I do not have the floor.

I do not think we have ever had testimony from the man who was responsible for all the mistakes made for 8 long years in the Pentagon and the Defense Department.

As the Senator from Arkansas knows, I have spent over two-thirds of my life in active interest in aviation. I first flew the F–111B a few years ago, before serious defects caused it to be called into Fort Worth for further testing. I am happy that further tests after modifications disclose it is now a sound plane, and it is being flown regularly by the Strategic Air Command. I have flown this new version of the aircraft; it is a vastly improved model, and the tests, as I say, showed nothing wrong. This airplane, I might add, has had a better safety record than any other jet aircraft we have ever introduced into the Air Force inventory.

I merely mention these things in saying again to my good friend from Arkansas that I have deep appreciation and thanks for the way in which he had made it possible for Americans to learn about this airplane which, in spite of all its trouble at the outset, is going on to be one of the great airplanes we have in our inventory.

Mr. McCLELLAN. I will say to the Senator that we have never tried to deter them from developing the best plane possible. They have tried. But the plan to design a single plane for the widely divergent missions of the Air Force and Navy has failed. They now have, possibly, a good attack bomber in the F–111F, but the other versions are far from being the planes originally desired. The Navy plane has been completely lost.

Mr. GOLDWATER. I could not agree with the Senator more. The whole purpose of the investigation has not been as to whether or not this was a good airplane. I think it was directed more at the contract problems, and at the commonality, which I hope is a word we have completely forgotten.

Mr. McCLELLAN. As I said from the beginning, I thought either company had the technical engineering capacity to build the kind of a plane that was desired, but I did not think that either could build it burdened as it was with commonality and poor management.

Mr. GOLDWATER. I could not agree with the Senator more; and if the committee's report does nothing more than point out to the Secretaries of the future that you cannot build a fighter and have it a bomber, or a tactical aircraft, or a recon aircraft, you build it for one purpose and it serves that, the effort will have been well worthwhile.

I thank the Senator for yielding.

Several Senators addressed the Chair.

Mr. McCLELLAN. I yield briefly to the Senator from Wisconsin.

Mr. PROXMIRE. First, Mr. President, I commend the Senator from Arkansas for a superb job on the TFX investigation.

My primary reason for seeking the floor is to respond to the remarks of the Senator from Arizona and the Senator from Washington concerning the allegation that our Joint Economic Committee did not call the principal witnesses responsible for the problems with the Defense Department.

I wish to tell the Senator from Arizona and the Senator from Washington that again and again we pleaded with Secretary McNamara to come before us. We wrote to him, we called him, and we asked him in person to come, repeatedly, just as I have repeatedly asked Secretary Laird to come before our committee, and he has refused to come. Secretary Laird sends Mr. Moot; he says he is an economist, and has jurisdiction over the Department's economic affairs.

We could not subpena the Secretary, because the Joint Economic Committee does not have subpena powers.

Mr. GOLDWATER. I think they have, if they would use them.

Mr. PROXMIRE. We do not have subpena powers.

Mr. GOLDWATER. They could try.

Mr. PROXMIRE. The Government Operations Committee, I understand, does. I am glad they do; they have done a marvelous job.

Mr. McCLELLAN. Mr. President, I yield to the distinguished Senator from Florida.

Mr. GURNEY. Mr. President, it has been my pleasure and privilege to serve on the subcommittee headed by the distinguished Senator from Arkansas during the latter part of this TFX investigation, and I certainly wish to join the other Senators who have made remarks previously here commending the distinguished chairman on the tremendous courage, thoroughness, and fortitude he showed in this TFX investigation in the face of great odds and pressure brought against him by the then administration as well as by some Members of Congress. No chairman ever showed greater courage or leadership than the distinguished senior Senator from Arkansas in this TFX investigation.

One other fact I think should be added and alluded to, which I do not think the other Senators have discussed, and that is the tremendous service rendered to the Nation by the distinguished chairman of our subcommittee, the Senator from Arkansas, in this investigation; because a great amount of money—no one will really know how much—was saved the United States in the redesign of the air-

craft, so that we finally ended up with a good aircraft instead of a bad one, as well as the cancellation of the Navy version, which then led to the Navy designing a plane that it could use. Certainly, billions of dollars were saved to the United States because of the actions taken and precipitated solely by the investigation undertaken by the senior Senator from Arkansas on the TFX. He, indeed, has rendered a great service to the Nation. It has resulted in a saving of billions of dollars, and we should all be grateful for it.

Mr. McCLELLAN. I thank the distinguished Senator, and I extend my appreciation for the cooperation he has given to the chairman not only in this investigation but in others as well since he became a member of the subcommittee.

I yield to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, as I have said before, the Senator from Arkansas and his colleagues on the committee have rendered an outstanding service, a very timely service, and have been, as always, effective in developing the full facts.

With reference to the Navy plane to which the Senator from Arkansas has referred, the legislative branch of the Government declined to authorize more money for that plane. The Department of Defense was still asking for the money. The Navy was testifying in favor of the money, for the plane. At the Armed Services Committee hearings on the military authorization bill, we got two or three of the admirals before us at the same time and asked them a sequence of questions about the plane; that led to the answers that caused us to strike out the plane entirely and to deny the requested funds. That is the only way it could have been stopped. Of course, the plane was not in production at that time, and we substituted the F–14, which is now in progress.

Mr. McCLELLAN. The Secretary of the Navy was testifying for it. Secretly, however, Navy officials were telling Mr. McNamara that the plane would not work. We found that out, and we realized then with what we were confronted.

Mr. STENNIS. I commend the Senator very highly for the report.

With regard to the commonality question, regardless of who was honest and who was right and sincere in the beginning, this proves that a common plane is not possible now, on the same general design and plan, and that knowledge is worth a great deal, too.

I thank the Senator.

Mr. McCLELLAN. I thank the distinguished Senator.

ORDER OF BUSINESS

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Chair wishes to announce that, under the previous order, the Senator from Indiana was to have been recognized. In his absence, that order is vitiated, and the Chair recognizes the Senator from Maine.

CLEAN AIR AMENDMENTS OF 1970—CONFERENCE REPORT

Mr. MUSKIE. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air.

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

The PRESIDING OFFICER (Mr. EAGLETON). 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 Dec. 17, 1970, pp. 42283–42294, CONGRESSIONAL RECORD.)

Mr. MUSKIE. Mr. President, it is with considerable satisfaction that I report to the Senate that the Senate conferees on the Clean Air Amendments of 1970 have returned, just in time for Christmas, with the package ordered unanimously by the Senate on September 22.

This was a long conference with the House conferees. There were many points at issue, many provisions in the Senate bill which were not considered at all by the House committee or by the House, nor reflected in the House version of this bill. The conferees worked long and hard on resolving these differences and dealing with the House problem of including in the bill provisions which the House had not considered. I think that what we have is a tough bill.

I commend to all of my Senate colleagues the result of the conferees' painstaking efforts over the past 3 months. It is a strong, tough, air pollution control agreement. It will enable the country to clean up the air and protect the public health.

The conferees' agreement, no less than the Senate bill, intends that all Americans in all parts of the country shall have clean air to breathe within the 1970's.

The conferees' agreement, no less than the Senate bill, carries the promise that ambient air in all parts of the country shall have no adverse effects upon any American's health.

The conferees' agreement, no less than the Senate bill, faces the air pollution crisis with urgency and in candor. It makes hard choices, provides just remedies, requires stiff penalties.

The conferees' agreement, no less than the Senate bill, calls for the money and the manpower required to clean up the air. A threefold increase in manpower and a total of $1.1 billion in funding over 3 years are authorized.

Mr. President, I am convinced that nothing short of this kind of commitment to the fight against dirty air, against environmentally induced disease, will be enough.

That is why I am greatly encouraged by the support given to this legislation by the Senate and House conferees, and I am particularly grateful to each of them for his contributions to our work during these 3 months.

Let me now review briefly where we were in September, what we had learned from our experience with the existing law, what we felt was needed for a successful effort to obtain clean air and to protect public health, and what the conferees accomplished.

There was little doubt in the Senate, in September, that the country was facing an air pollution crisis. Cities up and down the east coast were living under clouds of smog and daily air pollution alerts. More than 200 million tons of contaminants were being spilled into the air annually.

The costs of air pollution were being counted in death, disease, and disability. The National Institute of Environmental Health scientists estimated the cost of environmentally induced disease at $38 billion a year. A 50-percent reduction in urban air pollution, it was estimated, would result in a saving of $2 billion a year in health care costs.

It was clear that the country was falling behind in its struggle for clean air. Automobiles were putting out 64 percent of the carbon monoxide and 50 percent of the hydrocarbons. Two steel companies in the Chicago area spilled 3,500 more tons of pollutants into the air in 1968 than they had spilled in 1963.

It was clear, too, that the new legislation then being considered would have to go beyond the limited objectives of the Air Quality Act of 1967. Senators will recall that the 1967 act was drawn to enhance air quality, to reduce harmful emissions, and to "give the Secretary authority to implement that objective in the absence of effective State and local control."

The 1967 act established procedures for the achievement and maintenance of federally approved regional standards of ambient air quality. These standards, based on Federal criteria documents describing the effects of pollutants on health and welfare, are adopted and enforced on the State and local level. In the event that adequate standards are not developed or enforced, the Federal Government assumes the responsibiilty.

The underlying wisdom of the original legislation was confirmed. We learned from the criteria documents issued for five pollutants that more decisive action must be taken. We learned from the standards-setting process that public participation is important. We learned from experience with implementation of the law that States and localities need greater incentives and assistance to protect the health and welfare of all people.

The effectiveness of existing law depends in great part on the willingness of people to make tough decisions concerning the quality of air they want to breathe. It depends on their willingness to make their wishes known in public hearings on the local level.

This experiment in public participation worked. People became involved in the standards-setting process. They learned of the threats to their health and they sought to make the program responsive to their needs.

From citizen concern and corporate resistance, we learned that air pollution is more severe, more pervasive and growing faster than we had thought. Unless we recognized the crisis and generated a sense of urgency, national lead times to find and apply controls measures could melt away without any chance for a rational solution to the air pollution problem.

It is also clear that ambient air quality standards which will protect the public health must be set as minimum standards for all parts of the Nation, and that they must be met in all areas within national deadlines.

Congress adopted emissions standards as the basic control technique for moving sources in 1965, because they are not controllable at the local level. Here we learned that tests of economic and technological feasibility applied to those standards compromise the health of our people and lead to inadequate standards.

In 1963, the Congress recognized that the Federal Government could not handle the enforcement task alone, and that the primary burden would rest on States and local governments. However, State and local governments did not respond adequately to this challenge. Enforcement had to be toughened. More tools were needed. The Federal presence and backup authority had to be increased.

Finally, no level of government has implemented the existing law to its full potential. On all levels, the air pollution control program was underfunded and undermanned. Greater financial commitments had to be made and met at all levels.

With these lessons in mind last September, the Senate laid down in its bill five sets of requirements for tougher standards and tighter enforcement against air pollutants and air polluters.

First, the bill provided for national ambient air quality standards for at least 10 major contaminants that must be met by national deadlines. This meant that in every region of the country, air quality had to be better than that level of quality which protects health.

Second, national air quality goals—protective against any known or anticipated adverse environmental effects were to be set for the major pollutants and had to be achieved within specific time frames on a regional basis. These goals were especially important because some pollutants could have serious effects on the environment at levels below those where health effects occur.

Third, the bill provided that newly constructed sources of pollution had to meet rigorous national standards of performance. While we cleaned up existing pollution, we were determined to guard against new problems. Those areas which have levels of air quality better than the national standards should not find their air quality degrade by the construction of new sources.

Fourth, the bill provided the Administrator authority to prohibit emissions of hazardous substances. The committee had received strong evidence that any level of emissions of certain pollutants might produce adverse health effects that could not be tolerated.

Fifth, the bill provided the Administrator with the authority to set emission standards for selected pollutants which cannot be controlled through the ambient air quality standards and which are not hazardous substances. These pollutants could later be covered by either ambient air quality standards or by prohibitions as hazardous substance.

The Senate also recommended significant changes in title II of the act dealing with moving sources, and especially with automobiles.

In 1968, moving sources were responsible for more than 42 percent of the total emissions of the five major pollutants.

In health effects, these pollutants mean cancer, headaches, dizziness, nausea, metabolic and respiratory diseases, and impairment of mental processes. Clearly, solving the air pollution problem depended on the achievement of significant reductions in the emissions from automobiles. Clearly, protection of the public health required quick and drastic reductions.

Since legislation to deal with the problem of automotive emissions was first introduced in 1964, the industry had known that they would have to develop the solutions to the problem. In 1965 they announced that national standards could be met in the fall of 1967.

It was clear that continued reliance on gradual reductions in automotive emissions would make achievement of the ambient air quality standards impossible within the national deadlines established in title I of the Senate bill. More important, it would continue hazards to health long after they should have been eliminated.

In order to maintain those standards set under title I—standards which are necessary to protect the public health and which must be met in the next 5 years—the emissions standards for carbon monoxide, hydrocarbons, and nitrogen oxides which have been projected for 1980 had to be met eariler. The bill required that this be done by 1975.

To insure that production line vehicles perform adequately, the Senate bill required that each vehicle manufactured comply with the standards for a 50,000 mile lifetime. The manufacturer was required to warranty the performance of each individual vehicle as to compliance with emission standards.

The Senate in setting the 1975 deadline made every effort to make that requirement consistent with what the industry had testified on many occasions over the years: It provided 2 years for research and development of the necessary technology, and 2 years to apply that technology in the mass production of vehicles.

In response to claims that these requirements could be met, the Senate included in the legislation an opportunity for an administrative review of the 1975 deadline. A 1-year extension would be necessary and justified. The bill also provided for a review of that decision by an appellate court.

The Senate was aware of the problems these requirements might create for individual companies. Therefore, the bill provided a procedure for mandatory licensing which would make available patents necessary to achieve compliance to any manufacturer who could show a need and to whom the information was not otherwise available. This provision was also applied to stationary sources.

Predictions of technological impossibility of infeasibility were not considered sufficient reasons to avoid tough standards and deadlines, and thus to compromise the public health. The urgency of the problems required that the industry consider, not only the improvement of existing technology, but also alternatives to the internal combustion engine and new forms of transportation. Only a clear cut and tough public policy could generate this kind of effort.

The third major area in which the Senate recommended significant changes is the area of enforcement. Standards alone would not insure breatheable air. All levels of government had to be given adequate tools to enforce those standards.

The Senate remains convinced that most effective enforcement of standards would take place on the State and local levels. It was here that the public could participate most actively and bring the most effective pressure to bear for clean air.

Public participation is still important in the development of each State's implementation plan. These plans do not involve technical decisions; they do involve public policy choices that citizens should make on the State and local level. They should be consistent with a rational nationwide policy and should be subject to the approval of the Administrator.

However, the powers to enforce these standards had to be increased for the State and local governments as well as the Federal Government. The bill thus required adequate State enforcement authority as a part of implementation plans and provided that abatement orders could be issued by the Administrator or his representative. Violations of these orders were to be punishable by statutory penalties of as much as $25,000 for each day of a first violation.

The bill also provided the Federal Government with the authority to use the influence of the Federal contract as an incentive to compliance with standards.

Federal contracts could be awarded only to facilities which were in compliance with the standards and requirements of this act.

The bill extended the concept of public participation to the enforcement process. The citizen suits authorized in this legislation would apply important pressure. Although the Senate did not advocate these suits as the best way to achieve enforcement, it was clear that they should be an effective tool.

Mr. President, those were the basic and principal portions of the package taken by the Senate conferees to the first meeting with the House conferees on October 8. On several of those points, the House bill was silent. I ask unanimous consent to include in the RECORD at the end of my remarks a summary of provisions of the conference agreement.

I ask unanimous consent that a discussion of the key provisions of this agreement and the implications of those provisions be included immediately following the summary.

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

(See exhibit 1.)

Mr. MUSKIE. I have no doubt that this legislation, like its predecessor, will be subject to criticism. Already the auto industry has indicated it is unacceptable. Others will focus on its limitations and still others will find fault for political purposes.

That is the democratic process. It is not in the public interest that all critics be satisfied. But false implications are not needed. This is not a political measure—it had unanimous support from the Senate conferees—some of whom had differing views on specific language but all of whom knew that a public demand needed a stern response.

One issue on which there will be repeated interpretation and misinterpretation involves the deadline for achievement of emissions standards for passenger cars. The Senate did not get all that it wanted here. The Senate conferees had to accept two major changes in order to preserve the deadlines in the Senate bill and to obtain conference agreement.

First, the House insisted that an application for suspension from the effect of the deadline must be made earlier than 24 months before the effective date of the standard in question.

Second, the administration is required to make this decision within 60 days after receipt of such an application for suspension.

Conversely, two improvements were made. First, the Administrator no longer can be forced to rely upon the auto manufacturer to determine whether technology is available. He must test engine systems developed by private parties to ascertain whether they meet standards; thus, all available technology will be known. When a breakthrough occurs, the administration will know, and standards can be toughened even beyond the degree of control required by this statute.

Let me say, with respect to the conference agreement as it relates to the Senate agreement, that the Senate did not get all it wanted. It was necessary to compromise. Yet, in many instances, the compromise resulted in a stronger bill than either the Senate or the House bills. The key decision, the one on which the committee focused most over the past few months, was the deadline for the cleanup of the internal combustion engine in the passenger automobile.

The deadline has been retained. That deadline is January 1, 1975, for carbon monoxide and hydrocarbons, and January 1, 1976, for oxides of nitrogen. I repeat, that deadline has been retained.

The Senate bill provided, in addition, the possibility of an extension of 1 year beyond each of the deadlines. The limitation of a 1-year extension has been retained without change, except for the fact that the judicial review provisions of the Senate bill have been eliminated.

There has been one change made, upon House insistence. The date for applying for that 1-year extension of the deadline has been advanced by 1 year.

Mr. President, the Administrator would make the decision on whether an additional year should be granted on the basis of a review of the National Academy of Sciences on technological developments in the field as well as other information available to him. If the Administrator decides the deadline cannot be met, he must impose interim standards, achieving as high a level of emission control as technological developments permit. This advances the date for applying for the 1-year extension by 1 year, but no further extension is possible.

May I say that, in my judgment, the pressure is on the automobile industry. The deadline of 1975 and 1976 is still in the law, and only Congress can change it.

If the review procedure is followed and results in an extension, the maximum extension permitted for the 1 year as was the case in the Senate bill. Any extension beyond that can be provided only by action of Congress. That has not been changed by the conference agreement.

I think the action we have taken on the automobile deadline is a reasonable compromise, in light of the fact that the House bill contained nothing of the sort in its legislation. The House moved, I think, close to 100 percent toward the Senate provision. In other respects, the Senate bill is, I think, as tough now, following the agreement with the House, as it was when it left the Senate Chamber.

Other important features of the Senate bill were retained. Each individual manufacturer must, if suspension of the deadline is considered essential, apply to the Administrator and make the necessary showing. This means that the lack of technology or the leadtime to the smaller companies cannot be used as a justification for suspension by the major manufacturers.

Further, the companies must provide the Administrator with the information needed to judge their technical capability. The Administrator should require periodic reports on the progress of technology from each company—such reports and comments thereon should be a part of the report the Congress required by this section.

As in the Senate bill, the Administrator retains certain discretionary authority. He must, for example, prescribe the actual standard which the automobile must achieve to meet a 90-percent reduction from 1970–71 vehicle emission levels.

This technical judgment could be viewed as a way to vitiate the effect of the deadline by adjusting the measurement technique. This has been done once this year. Before the Senate completed action on this bill and before the decision to write a statutory standard for motor vehicles, the National Air Pollution Control Administration proposed a new measurement technique for vehicles. The new technique had the effect of increasing the allowable emissions for 1970–74 passenger cars. By the seemingly simple method of revising the base on which standards were calculated—new technology made pollutant quality and quantity easier to measure—the amount of allowable pollutants was increased.

The conference committee was aware of the potential for adjustment. The conference agreement mandates that measurement techniques be determined within 6 months after enactment. Should the base be adjusted again; that is, should a new measurement technique be adopted for carbon monoxide and hydrocarbons so as to increase the amount of emissions and thus alter the circumstances on which our judgment has been made, oversight hearings, and if necessary, corrective legislation will be the result.

Mr. President, this legislation is the product of an effort which involved many people over an extended period of time. The members of the Senate Committee on Public Works and their staffs deserve particular praise. Our hearings were numerous and there were more executive sessions. The members were patient, attentive, cooperative, and not partisan.

Chairman RANDOLPH and Senator COOPER, both of whom sit with the subcommittee, helped guide the bill through the full committee. Senators BOGGS, BAYH, MONTOYA, SPONG, EAGLETON, BAKER, and DOLE worked long hours on this bill and the final version represents their individual commitments to the goal of a clean environment.

Mr. President, there were many conferences with the House Committee on Interstate and Foreign Commerce. The chairman, HARLEY O. STAGGERS of West Virginia, who served as chairman of the conference, guided the legislation well. His constant reminder of the need to get a good, strong, reasonable bill helped maintain our determination. Representative PAUL ROGERS of Florida provided key proposals to break deadlocks and Representatives JOHN JARMAN, BILL SPRINGER, and ANCHER NELSEN worked diligently and patiently to formulate the compromise. The House conferees were ably and faithfully assisted by Kurt Borchardt and Bob Nordhaus, and without their cooperation with the Senate conferees' staff, this bill could never had been produced.

In conclusion, Mr. President, I want to emphasize again that committing the Congress with this legislation cannot be, and will not be, enough. In this Chamber, we can make promises to provide the funds and the manpower necessary to set and enforce the standards. That is not enough. We must carry our commitment through to the appropriations of those funds.

This program requires a commitment not only from the Congress and the Executive. It also requires a commitment from the people. And from all of us, it requires a new perspective. We all must recognize that the quality of our air is most valuable, most essential, to the quality of our environment and to the quality of our lives upon this planet.

EXHIBIT 1

SUMMARY OF THE PROVISIONS OF CONFERENCE AGREEMENT ON THE CLEAN AIR AMENDMENTS OF 1970

STATIONARY SOURCES

Air quality control regions: The agreement provides that areas of states not designated will be considered as air quaity control regions and provides authority for Administrator to designate interstate region.

Air quality criteria and control techniques: The agreement requires issuance of remaining air quality criteria for major pollutants within 13 months of date of enactment.

National ambient air quality standards: The agreement establishes procedures for setting primary national ambient air quality standards to protect public health and secondary national quality standards necessary to protect public welfare. Following promulgation of the standards (four months after issuance of criteria), the States will have nine months to develop and to adopt, after public hearings, a plan to implement the primary standards. Additional time will be provided to set implementation plans for secondary standards.

Implementation plans: The Administrator has six months to approve a submitted implementation plan or if no plan is submitted or the plan is inadequate, to substitute a plan of his own. The plan must be designed to achieve the level of air quality established by the primary standard within three years, and must include a description of steps which will be taken, including transportation and land use controls, emission requirements, and other enforcement procedure.

State standards: The agreement enables the State or local subdivision to adopt air quality emission standards that are stricter than the national standard.

New source performance standards: The agreement authorizes regulations to require that new major industry plants such as power plants, steel mills, and cement plants achieve a standard of emission performance based on the latest available control technology, processes, operating methods, and other alternatives.

Hazardous substance emissions: The agreement requires the administrator to regulate emissions of pollutants found to be hazardous to health.

Federal enforcement: The agreement prohibits violation of any air quality implementation plan, emission standard, etc. It provides criminal penalties and the authority to issue abatement orders. The agreement requires record keeping, authorizes subpoenas, requires emission monitoring, and authorizes right of entry.

Federal facilities: The agreement requires Federal facilities to control air pollution.

Moving sources: Standards—The agreement requires emission standards based on protection of public health and welfare without regard to the propulsion system and provides that the 1975 model cars must achieve at least a 90% reduction from emissions of the 1970 models. This would approximate the 1980 standards projected currently for automobiles. The agreement prohibits violation of standards.

Aircraft emissions: The agreement provides for regulation of aircraft emissions and Federal preemption of authority to regulate such emissions. Aviation fuels regulation is authorized also.

Penalties: The agreement sets penalties of up to $10,000 per vehicle and provides authority to seek injunctions against violators.

Certification: The agreement authorizes the Administrator to test any new vehicle submitted for certification for compliance with standards and authorizes certification for a year. It also provides for production line testing of vehicles.

On the road testing and compliance: The agreement requires warranty of 50,000 miles on emission system performance. The Administrator can test cars on the road, and can require recall if a representative sample fails the test.

State grants for vehicle inspection: The agreement authorizes 2-1 grants to the States for developing emission inspection systems.

Pre-emption: The agreement preempts State emission standard-setting authority, except for California.

Low emission vehicle: The agreement authorizes certification and purchase of Low-Emission Vehicles.

GENERAL

Research: The agreement authorizes $75 million for fiscal 1971, $125 million for fiscal 1972, and $150 million for fiscal 1973 research relating to fuels and vehicles. It authorizes research concerning the health effects of air pollution and authorizes an additional $15 million for long-term contracts to carry out these investigations.

State planning grants: The agreement provides 3 to 1 funding to states with a bonus now available only to interstate and intermunicipal programs; it also provides for the option of assignment of Federal personnel in lieu of cash grants.

Emergency powers: The agreement gives the Administrator authority to abate any pollution that presents an imminent and substantial endangerment to health.

Citizens suits: The agreement permits citizens suits to enforce violation of standards. Suits against the Administrator are limited to mandatory functions.

Federal contract compliance: The agreement prohibits the Federal Government from signing contracts with any company convicted of violation of air quality laws. The agreement authorizes the President to issue an executive order to provide uniform contract compliance language.

Judicial review: The agreement permits review of the standards, implementation plans, or other action taken pursuant to the Act.

Mandatory licensing: The agreement authorizes mandatory licensing of patents, on technology not otherwise reasonably available to facilitate compliance with provision of this Act.

Authorization: The agreement authorizes $650 million for three years for purposes other than Section 104.

Environmental policy: The agreement requires the Administrator to review any National Environmental Policy Act statements and major Federal actions and make his comments public.

Noise pollution: The bill establishes an Office of Noise Abatement and Control in the Environmental Protection Agency and authorizes $30 million to carry out functions.

DISCUSSION OF KEY PROVISIONS

Section 107–108. The conference agreement requires the designation of air quality control regions and the issuance of air quality criteria and control technique information within a statutory deadline. These are necessary administrative preconditions on which much of the rest of the agreement depends, and the conference committee felt it desirable to speed up their availability. Criteria have already been issued for five pervasive pollutants: sulfur oxides, particulates, carbon monoxide, hydrocarbons, and photochemical oxidants. Within the 13-month deadline, the Congress expects criteria to be issued for nitrogen oxides, fluorides, lead, polynuclear organic matter, and odors, though others may be necessary.

Section 109. Under section 109 of the agreement, national ambient air quality standards must be established, either within one month of enactment or simultaneously with any criteria issued. For each pollutant subject to a criteria document, there will be a primary ambient air quality standard, set at the level of air quality adequate to protect the public health, and a secondary ambient air quality standard to eliminate adverse effects on welfare.

Section 110. Section 110 requires each State to develop an implementation plan which assures the attainment of the primary ambient air quality region within three years from the date the plan is approved. The plan also must provide for reaching the generally more restrictive levels of air pollution of the secondary standards within a reasonable set time period and should be related to the difficulties with which a particular region is confronted.

With up to four months for the final promulgation of national standards, up to nine months for the States to develop their plans and up to four months for the Administration to either approve a State plan or decide to substitute his own authority in promulgating a plan, approval of plans for major pollutants is no more than 17 months away. Within four and one-half years, the level of air quality in American cities, as to these major pollutants, should be adequate to avoid adverse effects on public health.

In order to implement the national ambient air quality standards, these plans must provide for emission limitations on all services in the region covered by the plan, together with schedules and timetables of compliance, systems for monitoring both ambient air and emissions from individual sources, and adequate enforcement authority (including special provisions for air pollution emergencies). Implementation plans must provide that when adequate on-the-road motor vehicle emissions tests are developed, the State will have a system for periodic inspection. Federal grants are available to develop such inspection programs.

Implementation of standards will require changes in public policy: land use policies must be developed to prevent location of facilities which are not compatible with implementation of national standards. States must review the location of every new stationary source before construction to assure no interference with attainment of the standards.

Transportation policies must be developed or improved to assure that the impact of pollution from existing moving sources is reduced to the minimum compatible with the needs of each region. Construction of urban highways and freeways may be required to take second place to rapid and mass transit and other public transportation systems. Central city use of motor vehicles may have to be restricted. In some congested areas the number of operations of aircraft into an airport may need to be limited, or steps taken to reduce emissions while aircraft are on the ground. If such controls are required, the plan for implementation should so provide. If the plan is approved, the Congress expects the Federal regulatory agencies to take the steps necessary to assure compliance with the plan.

The conference committee was convinced that the Administrator of the Federal Aviation Agency would work closely with the States and the Environmental Protection Agency to attain these controls when necessary.

If, at the time of plan approval, it appears impossible to bring specific sources into compliance within three years, the Governor of the State may request an extension of the deadline up to two years. The Administrator must be satisfied that alternate means of achieving the standard have been considered (including closing down the source in question), that all reasonable interim measures will be applied, and that the State is justified in seeking the extension.

A Governor may also apply for a postponement of the deadline if, when the deadline approaches, it is impossible for a source to meet a requirement under an implementation plan, interim control measures have reduced (or will reduce) the adverse health

effects of the source, and the continued operation of the source is essential to national security or the public health or welfare of that State. Such a postponement is subject to judicial review.

Section 111. The conference agreement, as did the Senate bill, provides for national standards of performance on emission from new stationary sources. Included under this section would be emissions from new or modified installations of major industries. These sources, important in themselves and involved in industries of national scope must be controlled to the maximum practicable degree regardless of their location. Standards of performance must be set at the greatest degree of control attainable through the application of the best system of emission reduction which has been adequately demonstrated.

Sources for which the Congress would expect standards of performance to be established include:

Cement manufacturing;
Coal cleaning operations;
Coke byproduct manufacturing;
Cotton ginning;
Ferroalloy plants;
Grain milling and handling operations;
Gray iron foundries;
Iron and steel operations;
Nitric acid manufacturing;
Nonferrous metallurgical operations (e.g. aluminum reduction, copper, lead, and zinc smelting);
Petroleum refining;
Phosphate manufacturing;
Phosphoric acid manufacturing;
Pulp and paper mill operations;
Rendering plants (animal matter);
Sulfuric acid manufacturing;
Soap and detergent manufacturing;
Municipal incinerators; and
Steam electric powerplants.

Section. 112. Under section 112, the Administrator must set emission standards for hazardous air pollutants, after public hearings on proposed standards. The standards must be set to provide an ample margin of safety to protect the public health. This could mean, effectively, that a plant would be required to close because of the absence of control techniques. It could include emission standards which allowed for no measurable emissions.

New sources of such pollutants may be constructed only if they meet the standards. Within two years, if installment of control equipment takes that long, existing sources must meet the standards, and during any relay in meeting the standards, alternate means must be used to protect the health of persons from imminent endangerment. Examples of substances which the Administration informed the Senate were likely to be controlled under this provision are beryllium, asbestos, mercury, and cadmium.

Section 113. Federal enforcement under section 113 leaves the primary responsibility with the States for enforcing requirements under implementation plans. The Administrator can issue an abatement order to a polluter or go to court seeking an injunction only after 30 days' notice to an individual polluter, or 30 days after notifying the State that the Federal Government is generally assuming enforcement powers in that State because of a widespread failure of States' enforcement. This gives States 30 days in which to take appropriate action themselves.

For Federal standards of performance for new sources and emission standards for hazardous air pollutants, the Administrator may enforce without delay by either issuing an order to abate or seeking an injunction in court. This authority may be delegated to States but the Administrator retains authority to act directly without notice to the State.

The conference agreement retains the existing abatement conference procedure for international pollution and for pollutants not subject to ambient air quality standards or emission standards for hazardous air pollutants. The effect of past enforcement actions is preserved.

Knowing violations of an order issued by the Administrator or of State implementation plan requirements (where the violator has received notice) or of Federal standards of performance for new sources or of Federal emission standards for hazardous emissions shall be punishable by a fine of not more than $25,000 per day of violation or by imprisonment for not more than 1 year. For second or subsequent violations, the fine is not more than $50,000 and imprisonment for not more than 2 years.

Section 114. The conference agreement grants authority to the Administrator or his authorized representatives to enter the premises of any emission sources, to require the owner or operator of any source to install and maintain emissions monitoring equipment (and to protect it against tampering), to require sampling of emissions, and to require records and reports. Violations of this provision are subject to restraining orders and knowing falsification of records, reports and other information required by this Act is subject to criminal penalties of $10,000, or imprisonment of six months, or both.

Section 202. The Administrator is directed to establish emission standards for pollutants from new motor vehicles or engines which are likely to endanger the public health or welfare. Such standards are to be applicable for the useful life of the vehicles or engines. The statute specifies that "useful life" shall be a period of use of at least five years or 50,000 miles, whichever occurs first. The effective date of the standards is to depend on the period necessary to develop the requisite technology, giving appropriate consideration to the cost of complying by such date.

Carbon monoxide and hydrocarbon emissions from light duty vehicles for 1975 model year and thereafter are to be reduced at least 90 per centum over 1970 standards for these pollutants. Oxides of nitrogen emissions from light duty vehicles for the 1976 model year and thereafter are to be reduced by at least 90 per centum over the actual emission of these pollutants from 1971 model vehicles, which were not subject to Federal or State standards for such emissions.

Any manufacturer may apply to the Administrator within specified time limits for a one-year suspension of the statutory time limits, and the Administrator is to issue interim standards if he approves such application. Such interim standards are to reflect the greatest degree of emission control which is achievable by application of technology determined by the Administrator to be available. The Administrator is to take into consideration whether the manufacturer has met statutory requirements relating to public interest and public health and welfare, availability of technology, and good faith efforts to meet standards.

The Administrator is to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility of meeting statutory deadlines for the 1975 and 1976 model years. In entering into such arrangements, the Administrator is to request the Academy to submit its first report not later than July 1, 1971. The Administrator is directed to use all information-gathering authority granted to him to furnish to the Academy any information requested by it.

Section 207. The provisions for warranty of vehicle emission control systems or devices, contained in section 207 of the conference substitute, are among the most important in the Act. Standards for new cars will have little impact if we cannot assure compliance with those standards over the useful life of those vehicles. Testimony required by the Committee indicated significant deterioration from expected performance levels as between prototype models and production vehicles. According to information provided by the National Air Pollution Control Administration from the record of the Senate hearings:

"The production fleet data indicate that air quality in 1985 will be 25 percent higher in hydrocarbons and 13 percent higher in carbon monoxide than it would have been if there were no discrepancy in emissions rates. Oxidant concentrations are approximately a direct function of hydrocarbon concentrations, as indicated in the "Air Quality Criteria for Hydrocarbons." Thus the oxidant levels in 1985 will also be approximately 25 percent higher. This analysis is based on data gathered from 1968 and 1969 model year cars. To the extent that production fleet performance can be made to approximate prototype emissions more closely, in 1970 and later model years, the discrepancies in the projected curves can be reduced." (Volume 1, p. 372.)

This information, in addition to data which shows significant deterioration from the standard after a vehicle accumulates mileage, suggests that the investment in emission systems by the American public will be of no purpose and that the air quality objectives of existing and proposed legislation will have failed unless better performance is required.

The responsibility of the industry cannot stop at the factory gate. Without some degree of quality control which can only be assured through individual vehicle compliance, the motorists cannot be required to maintain emission performance—vehicle emission inspection programs will be meaningless—and air quality will not be maintained.

Conversely, by requiring the manufacturer to warranty performance, margins of safety will be built into each vehicle to insure better than required performance, systems will be designed to minimize deterioration, State vehicle emission inspection programs can cause proper maintenance to be observed by the motorists and the air quality objectives of this legislation will be implemented.

To achieve this, the conference agreement provides that motor vehicles be warranted by the manufacturer to comply with emission standards for 5 years or 50,000 miles. This performance warranty is in addition to a statutory warranty of freedom from defects in materials and workmanship.

The performance warranty cannot be enforced until the Administrator establishes methods for on-the-road testing of vehicles and states have individual vehicle compliance inspection systems and programs. A warranty will not become effective until the vehicle's deviation from the standards subjects the owner to some sanction, such as a fine or ban from the road. Proper operation and maintenance according to the manufacturer's reasonable instructions is a precondition to the warranty, but all repair work under the warranty, as in the case of vehicles recalled because of non-conformity with the standards, must be at the cost of the manufacturer.

Section 211. Section 211 of the conference substitute authorizes the Administrator to control or prohibit the manufacture or sale of motor vehicle fuels or fuel additives. This is combined with added information-gathering powers in the registration of all fuels and fuel additives. The Administrator may impose such controls or prohibitions if emission products of a fuel will endanger public health or welfare, or if the fuel or additive impairs to a significant degree a vehicle emission control system in general use, as long as the control of a fuel does not result in a greater danger to public health or welfare from a substitute fuel.

The concept of a control or prohibition should be taken to include requiring design changes in motor vehicles, as well as fuel handling equipment, to ensure maximum compliance with regulations specifying acceptable fuel use for various classes of vehicles. In developing any controls, the Administrator should consider the fuel needs of existing motor vehicles, as well as future production.

While the conference substitute specifies procedures under section 211 which the Administrator will use in determining whether to prohibit or control fuels or fuel additives, the conference committee wishes to call the Administrator's attention to the relationship between his functions under this section and the emission deadlines stipulated in Section 202. It is not the intent of the Congress to create a cumbersome, time consuming administrative procedure which will delay necessary controls on fuels and fuel additives required to meet these deadlines.

Neither is it the intention of the Congress to lock the Administrator into a rigid economic interpretation of the cost benefit analysis specified in this section in making his determination to prohibit or control fuels or fuel additives.

Rather, the conference committee wishes to call the attention of the Administrator to the broad environmental, esthetic and health considerations underlying the enactment of this legislation which should be kept in mind making these determinations.

States and localities are preempted from presenting or enforcing controls or prohibitions not identical to those of the Federal government, unless an approved State implementation plan under section 110 provides for fuel or additive control in order to attain the national ambient air quality standards. California, however, is free to have any regulation of fuels or additives it finds necessary.

Sec. 231–234. A new Part B of Title II, added by the conference agreement, provides authority for the Administrator to prescribe emission standards for civil aircraft and aircraft engines. This he must do after no more than 180 days of study and after public hearings in critically affected regions. The Secretary of Transportation, through the Federal Aviation Agency, will enforce the standards. States and localities are preempted from adopting or enforcing any but identical standards. The Administrator is also authorized to recommend standards for aviation fuels, which must be prescribed by the Administrator of the Federal Aviation Agency.

The conferees expect that critical standards for aircraft will go considerably beyond the present smoke reduction program which is being carried out for three-engine jets. To limit the standards to certain aircraft is unacceptable. To rely on smoke reduction alone ignores other, perhaps more important pollutants, which will have to be controlled as a part of the national ambient air quality standards program.

Section 304. The conference agreement authorizes citizen suits against polluters to abate violations of any emission limitation under the Act (including State implementation plans), and against the Administrator to require him to do any of the functions this Act assigns to him. Any polluter, including a government agency, is subject to such a suit after 60 days notice from the citizen-plaintiff. If a government abatement action is being diligently pursued in a United States or State court, a citizen action cannot be filed, but an interested party may intervene as a matter of right. There is no delay or notice requirement for violations of the Administrator's order or a violation of a hazardous pollutant emission standard. Cost of litigation, including attorney's fees and expert witness fees, could be awarded to either party, as the court thinks appropriate.

The Courts should recognize that in bringing legitimate actions under this section citizens would be performing a public service and in such instances the courts should award costs of litigation to such party. This should extend to plaintiffs in actions which result in successful abatement but do not reach a verdict. For instance, if as a result of a citizen proceeding and before a verdict is issued, a defendant abated a violation, the court may award litigation expenses borne by the plaintiffs in prosecuting such actions. However, there is no question that some persons may use section 304 to bring frivolous and harassing actions. In such case, the court could award costs of litigation to defendants as it is in the public interest to avoid such actions. This should have the effect of discouraging abuse of this provision, while at the same time encouraging the quality of the actions that will be brought.

Section 305. An important provision of the conference agreement is section 305, granting the Administrator the authority to represent himself in court if the Attorney General does not notify him that he will enter the case within a reasonable time. This is necessary if the Administrator is to have effective control of enforcement actions under this Act. The Administrator is required to initiate enforcement actions; this allows him to satisfactorily carry them out.

Section 308. In order to prevent the stringent standards of the Act from contributing to monopolist concentrations in any industries, the conference agreement provides for a limited mandatory licensing of the technology necessary to meet automobile emission standards, emission standards for hazardous air pollutants, or new source standards of performance, if covered by a U.S. patent. If rights under such a patent are not reasonably available, or the technology not commercially available through purchase of control equipment, the Attorney General may certify to a district court that some lessening of competition will result and seek a license on reasonable terms and conditions.

Section 310. The conference agreement instructs the Administrator to review and comment on Federal actions which affect environment and make such comments public upon completion of his review.

This policy conforms with Sec. 102 of the National Environmental Policy Act and was discussed with the Administrator of the Environmental Protection Agency, William D. Ruckelshaus, at his confirmation hearing on December 1, 1970.

The conference agreement thus removes the ambiguity concerning the public release of such reviews and comments which has emerged during the debate on appropriations for the supersonic transport. Those comments must be made public when the Environmental Protection Agency completes its review—not when the environmental impact agency decides the public should be informed.

Authorizations. The conference substitute adopts the House amount for Fiscal Year 1971 for Sec. 104 and Sec. 309—a total of $200 million. For Fiscal Year 1972 the conference agreement provides for a total of $350 million, of which $125 million is for research on fuels and vehicles. For Fiscal Year 1973 the authorization is $150 million for research under Section 104, out of a total of $450 million. In addition the conference substitute retains $15 million or long term contracts for air pollution effects research under Section 103, $30 million for funding the Office of Noise Abatement in the Environmental Protection Agency, and $55 million for low emission vehicle procurement, $5 million of which is authorized for Fiscal Year 1971 and $25 million each for Fiscal Years 1972 and 1973.

Mr. EAGLETON. Mr. President, will the Senator from Maine yield?

Mr. MUSKIE. I am happy to yield to the Senator from Missouri and commend him for his invaluable assistance in the committee, on the floor, and in the conference.

Mr. EAGLETON. I thank the Senator from Maine. I should like to propound to him a few brief questions just to illustrate further the significance and the parameters of this very noteworthy piece of legislation.

Before doing so, I wish to praise his enormous efforts in this valuable piece of legislation. But for the Senator from Maine, but for his diligence, his persistence, his persuasiveness, we would not have as good a bill as we today have before us.

We all recognize that this bill has great significance for our national effort to clean up the air pollution that afflicts virtually every citizen in the United States. I think we should also pause to record that this bill also marks a very significant step forward in the continuing development of more responsive and responsible relationships among the Federal Government and the State and local governments of our country. I want to thank the distinguished Senator from Maine for his vigorous and enlightened leadership on this less conspicuous but singularly important aspect of this bill. Would the Senator from Maine agree that this bill has very broad significance in the area of Federal-State relations?

Mr. MUSKIE. Yes. May I say to the Senator that during the deliberations on the bill I have been very much interested in preserving "local option" features, so that State and local authorities would be able to pursue options among a broad array, seeking a possible way of controlling or preventing air pollution that is most responsive to the nature of their air pollution problem and most responsive to their needs. In my judgment, the bill will give State and local authorities sufficient latitude in selecting ways to prevent and control air pollution.

Mr. EAGLETON. It seems to me that even with the strong provisions in this bill concerning automobiles, it will be necessary for us to devote more of our national resources to alternative ways of transporting people, particularly transporting them to and from our cities and within those cities, at less than supersonic speeds. Would the Senator from Maine care to comment on this proposition?

Mr. MUSKIE. Yes, I would. There is a tendency to focus upon the new car provisions in the bill, and understandably so. Nevertheless, what really moved the committee, the Senate, and the conferees to go in the direction of a tough deadline for new cars is the fact that there are used cars, and the used car population creates a problem. There are 100 million to 110 million automobiles that are moving about, heavily concentrated in the large urban centers and beyond the reach, really, of any effective technological control development.

Further, if we are to deal with the used car problem, we need a new car deadline in order to begin the process of

cleaning up new used cars. We still have existing a mass of used automobiles to deal with. The bill before us deals with that problem by the requirement of national ambient air quality standards geared to help.

Those standards, realistically applied, will require that urban areas do something about their transportation systems, the movement of used cars, the development of public transit systems, and the modification and change of housing patterns, employment patterns, and transportation patterns generally. All of that is implicit in the concept of implementation plans for national ambient air quality standards and what they mean for the used cars in our country.

Mr. EAGLETON. Would the Senator from Maine agree with me that this bill is intended to afford to the citizens of the United States very broad opportunities to participate in the effort to prevent and abate air pollution? Are not the citizen suit provision and the requirement for public hearings on State implementation plans likely to result in higher quality and better air pollution control programs across the Nation than would likely be the case if there were less opportunity for citizen participation?

Mr. MUSKIE. That was the thrust of the Senate bill in many respects, and although we did modify the citizen suit provision I feel that thrust is retained. The Senate committee felt it would be impossible to do the total job of air pollution cleanup relying wholly upon the Federal bureaucracy.

This is why we emphasized the necessity for developing State and local programs. But in addition, this bill provides for other participation by citizens in various ways. We regard that as a key element in the successful prosecution of the air pollution goals which this bill undertakes.

Mr. EAGLETON. Mr. President, as the Senator knows, long after the Senate had completed action on the air pollution bill, well after administration representatives had been invited to react to the Senate's air pollution bill, and even after an announced agreement had been reached on the vital auto deadline, to which the Senator from Maine has already referred, the Nixon administration wrote an 11th-hour letter to the distinguished Chairman of the Senate Public Works Committee. In my view, that letter can only be interpreted as an attempt on the part of some in the administration to weaken the strong Senate bill and the tentative conference compromise.

Does the Senator from Maine think that the Richardson letter is an indication that we should carefully review implementation of this program in mid-1971 to be sure that the regulations are not weakened in application?

Mr. MUSKIE. Mr. President, I agree. The Richardson letter was badly timed. It did complicate the work of the conference and make it more difficult to reach agreement and to achieve what we ultimately achieved in the conference agreement.

On this point I concur with the Senator. We should carefully review the implementation of this program next year to insure that it is moving along in accordance with our interpretation of what we think the Senate is doing in this piece of legislation.

Regulations are not to be used to dilute and water down the strong policy which the Senate is adopting.

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

Mr. MUSKIE. I yield.

Mr. MAGNUSON. Mr. President, I am not familiar with everything the conferees did. But I think that there is some confusion as to what department would be the enforcement agency.

Mr. MUSKIE. The Environmental Protection Agency.

Mr. MAGNUSON. What about the Department of Transportation? Would it have something to do with it, or the Motor Safety Division?

Mr. MUSKIE. The Senator refers to the low-emission vehicle program which the Senator from Washington introduced and of which I was a cosponsor. We had joint hearings on it with the Committee on Commerce. And it was reported out of the Committee on Commerce. It was passed as separate legislation. Then it was included in this bill. It is retained in the conference report.

Mr. MAGNUSON. Mr. President, I thoroughly agree with the Senator from Maine. We can set a deadline and then no one has any oversight over what is going on. So we come to the deadline and someone will say, "We have not done it."

They give us all the rigmarole and the reasons why they have not done it.

I am concerned about having some kind of surveillance over this as we move along toward the date decided by the conference. We could do that later. But we should have the legislative oversight committee or someone do it. Perhaps it should be the new Environmental Control Committee on which we will meet this afternoon. They might do that. I do not know.

Mr. MUSKIE. This could be within their area of jurisdiction. I think it might be useful to read this provision from the House RECORD of yesterday:

> There is established a Low-Emission Vehicle Certification Board to be composed of the Administrator or his designee, the Secretary of Transportation or his designee, the Chairman of the Council on Environmental Quality or his designee, the Director of the National Highway Safety Bureau in the Department of Transportation, the Administrator of General Services, and two members appointed by the President. The President shall designate one member of the Board as Chairman.

Mr. MAGNUSON. This is the sort of thing we have to keep on top of.

Mr. MUSKIE. The Senator is correct.

Mr. MAGNUSON. Otherwise we will wake up on a given date and they will say, "Well, we have not been able to do it." They will give all kinds of reasons why they have not been able to do it. There will then be an outcry to extend it.

I think we have to be sure that someone is on top of this thing all the time.

Mr. MUSKIE. Mr. President, I thank the Senator from Washington.

Mr. President, I now yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I shall ask the able chairman of the subcommittee several questions. The Senator from Maine who served so effectively as chairman of the Senate conferees, has, not only during this conference, but also during several years past, given much of himeslf to the development of this legislation. It is as he said in commenting on the conference report, good strong legislation.

I respectfully disagree with the words of the Senator from Maine and the words of the Senator from Missouri in reference to the appropriateness of the communication from Secretary Richardson.

Each person places his own interpretation on the content of the letter. I do not say this today for the first time. I said it when we discussed the matter within the Public Works Committee and when we discussed it within the conference. I am only repeating what I have said before.

I am very frank to say that I think the letter should have come to us sooner. This is something that I want the RECORD to reflect. I also want the RECORD to indicate that there had been no final decisions made here on Capitol Hill in reference to this important legislation at the time the communication was received. The democratic process is at work. The legislative process is at work. The advice from the executive branch is at work in reference to the finalization of this important legislation.

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

Mr. RANDOLPH. I yield.

Mr. MUSKIE. Mr. President, to clarify my position with reference to the administrator's prerogative to comment on this legislation or any legislation, it is not my intent in the remarks I made earlier that the administration does not have that prerogative. From the time we reported this bill out of the Subcommmittee on Air and Water Pollution, we publicly and in other ways solicited the administration's position on the provisions of the bill.

It would have been useful to have had the administration position in the course of the floor debate. We speculated about it, but we did not know what it was.

We went to conference, I think, about October 8 or 9. We reached a tentative agreement on the auto emission deadline on that day. The letter from the Secretary of HEW is dated November 17, some 6 weeks later. It is that to which I direct my criticism. Six weeks after we started the conference we got this letter on the administration's position. Certainly it is the administration's prerogative to send it up at any time it wishes. They could have sent it today. I am talking now about the very disruptive effect the timing had.

Mr. RANDOLPH. I have agreed with my distinguished colleague, the Senator from Maine, that I felt the letter was late in arriving. I made that statement at the very outset. But I do not look on a letter from the administration setting forth its views as disruptive.

I look on it as a further indication of the interest of the parties who are in the Federal Government either officially or

indirectly, and that, I think, is the democratic process.

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

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, who has the floor?

The PRESIDING OFFICER. The floor is held by the Senator from Maine, who had yielded to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I have some further remarks I am going to make in reference to the conference report, but I have just called attention to the colloquy here.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. Mr. President, I yield the floor so the Senator from West Virginia can have the floor in his own right for the purpose of yielding to other Senators.

Mr. BAKER. I wanted to make sure who had the floor so that I know to whom I should address my inquiry so that I might comment on the colloquy between the Senator from Maine and the Senator from Missouri.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, because of the colloquy which has ensued, I yield next to the Senator from Missouri.

Mr. EAGLETON. I thank the Senator. As the Senator from West Virginia knows, the air pollution bill was pending before the Committee on Public Works for many months.

Mr. RANDOLPH. The Senator is correct.

Mr. EAGLETON. And on numerous occasions representatives of the administration, Dr. Middleton, and others in the Department of Health, Education, and Welfare, either testified before the Committee on Public Works, and I refer to the Subcommittee on Air and Water Pollution of that committee, or had conferences and communications with that committee.

Mr. RANDOLPH. The Senator is correct.

Mr. EAGLETON. It is well known that as the bill evolved through the committee process, in subcommittee, in full committee, in markup, and so forth, and it was widely disseminated in the public press that the Senate committee was considering a 1975 model year cutoff with respect to new cars.

Mr. RANDOLPH. At this point the able Senator knows that much of what is printed in the press on so-called executive sessions, and conversations of Members, is a constant problem, not that the press should not inform its readers. I commend the media for attempting to be accurate. But I think there is a constant question mark in stories of this kind. I would not say that what we were doing was precisely set forth.

Mr. EAGLETON. Passing for a moment from what had or had not been published in the press, it was abundantly well known in the Department of Health, Education, and Welfare that the Senate committee was considering and leaning strongly toward a 1975 cutoff with respect to new cars. Is that correct?

Mr. RANDOLPH. The Senator is correct.

Mr. EAGLETON. Then, I would like to ask this question, without for a moment wishing to detract from the excellent bipartisan cooperation in the committee and in the Senate which has made this bill possible: No one questions the prerogative of any Cabinet official to write a letter to any Senator or Representative at any time he is predisposed to do so; but what is raised by the timing of this letter is more significant than the content of the letter. Bear in mind that we worked on this bill for many months and that we had gone through laborious executive sessions in the Committee on Public Works, and we had Mr. Middleton for a part of those sessions, and the bill was reported to the floor. On the floor it was vigorously debated, and, in particular, the provision on automobiles was debated between the Senator from Maine and the Senator from Michigan. Then the bill went back to conference. There was a tentative agreement, and it was printed in the press before the election recess that the tentative agreement had been reached on this portion of the bill. After all of that, we hear in writing from Secretary Richardson for the first time after the election recess that he has some objection to the 1975 cutoff deadline.

The point I am trying to make is that I do not question Mr. Richardson's ability or authority to write the letter. But with that history behind this bill I do question why it took him until November 1970 to make his position clear with respect to this single most contentious portion of the bill.

Mr. RANDOLPH. I wish to reply. I have said that it would have been much better if the letter from Secretary Richardson had come sooner.

Frankly, in the matter of a conference report I am not interested in attempting to charge the administration with being weak. I am not attempting to charge them with being weak or strong on this subject matter. The Senate acted, the House acted, and now Congress is acting.

It is my feeling that that which has gone before—the expression of various viewpoints and possibly the late timing of the expression by the Secretary—are matters that perhaps are not as important as what we have done. That is why I have said it is a matter of interpretation. I respect my colleagues in their discussion of the matter and I understand they have their reasoned judgment on the matter. I am sure other members of the committee and of the Senate have their feelings with respect to the situation.

Mr. EAGLETON. I thank the Senator.

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

Mr. RANDOLPH. Mr. President, I yield to the Senator from Tennessee.

(At this point Mr. EAGLETON assumed the Chair.)

Mr. BAKER. Mr. President, I was a conferee in connection with this bill. I am a member of the Subcommittee on Air and Water Pollution and have been since I came here in 1967. I have served with great pleasure under the chairmanship of the chairman of the subcommittee and the distinguished chairman of the full committee.

As far as I can recall, this is the first time the purposes of an air quality bill, or for that matter a water bill, have been subordinated in debate on the floor, or in committee, for political purposes. I feel that was the case in the colloquy that just took place between the Senator from Maine and the Senator from Missouri.

I feel the Senate passed a meaningful, worthwhile and strong bill. I think it will contribute materially to the business of cleaning up air in this country and taking care of the problem of automobile emissions. That has been accomplished because Republicans and Democrats on that committee for many years have cooperated not only between each other but at the staff level. Under the leadership of our chairman on the full committee and the chairman of the subcommittee staff members have cooperated, and there has also been cooperation with the agencies of government in the executive department which, for weeks, months, and years on end have conferred almost constantly with staff members on the minority side and the majority side as to how best to arrive at sound conclusions. This cooperation has been so close that some of these discussions are discernible in the platforms of both major parties and in the state of the Union message of the President of the United States. That is no small accomplishment for a committee or a subcommittee.

The Senator from Maine is to be commended without restraint for his leadership and motivation to the rest of us in this field. That makes it all the more tedious for me to sit in this Chamber on the eve of the adoption of a conference report underscoring a good bill and hear a political purpose being served by a bill that was worthwhile, notable, and nonpolitical, even under circumstances which might understandably have been suspect of producing a different atmosphere and a different set of circumstances.

If the Senator from West Virginia will yield for a moment more I wish to clarify my statement. I am referring specifically to the remarks, as I understood them, by the junior Senator from Missouri to the effect that the Richardson letter, referring to the Secretary of Health, Education, and Welfare, Elliot Richardson, dated November 17, 1970, and I quote: "must be interpreted as an attempt on the part of the administration to undercut the strong Senate bill."

Now I had not proposed to say anything about the automobile section at this time as the Senate considered this proposal because I believe my colleagues who were conferees on this bill will recall that I was the only conferee in the House or the Senate who did not agree and specifically voted against the first weakening of this bill.

I think my conferee colleagues might also agree that I have contended from the very beginning that Congress ought

to do what we apparently have not chosen to do in this case, and that is to remove the serious business of deciding whether or not the automobile industry has made a good faith effort to comply with the bill's requirements beyond the tender mercies and the political motivations of a future Congress, and, rather, vest it in the independent judiciary to gather those facts and resolve those conflicts and decide, in 1976, a Presidential year, an election year for a third of this body and all of the House of Representatives.

The legislative department will be called upon to sit as a factfinding body to decide whether or not the automobile industry will be permitted to continue manufacturing automobiles, assuming it has not fully met this statutory deadline. I think it is a horrible prospect. I think it would be difficult enough for the independent judiciary to undertake it.

All of that, I say again, I have subordinated to the desires of the majority of the conferees, and I felt, and I still feel, we have a good bill, but I also feel that it is unfair to overlook the weeks and months of coordination between the members and staff of this committee and this administration and the previous administration, and the weeks and months and even years of nonpartisan cooperation between the members and the staff of this committee, and the inspired leadership of our committee chairman and our subcommittee chairman in trying to unravel probably the most delicate and complex domestic problem that has confronted the country in 100 years, and do it in a spirit of give and take; and then as we get to final passage of the bill, with a few Senators on the floor, we hear the charge that the position of the administration is to undercut a strong Senate position.

I submit that is not worthy of the effort that has gone into this legislation thus far and into previous legislation in previous sessions of the Congress.

Mr. RANDOLPH and Mr. COOPER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I wonder if I might complete a very brief comment on the conference report.

Mr. COOPER. I wanted to comment on the point just made.

Mr. RANDOLPH. I yield to my able colleague from Kentucky.

Mr. COOPER. Mr. President, I know the Senator from West Virginia will point out the constructive work the Senate and House conference have done on this most important bill. But before he speaks, I want to respond to the statements that have been made that the letter from the Honorable Elliot Richardson indicates that the administration will try to undercut this bill. I must say I have found nothing in the letter which supports the statement. In fact, while the letter disagreed with the Senate and House versions of the bill on some points, the letter states that the administration wants a strong bill. Secretary Richardson, said this in the closing paragraph of his letter:

In conclusion we would like to reiterate the Administration's strong support for the effective control of air pollution by legislation embodying the major features of the House and Senate bills. Accordingly, we recommend the enactment of such legislation, incorporating the recommendations made above, during this session of the Congress.

Mr. President, I ask unanimous consent that the entire text of Secretary Richardson's letter be inserted at this point in the RECORD.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., November 17, 1970.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to present the views of the Administration to the conference committee considering the House and Senate versions of H.R. 17255, amendments to the Clean Air Act.

To begin with, it is extremely gratifying to note that all of the major Clean Air Act amendments proposed by President Nixon in his February 10, 1970 environmental message to the Congress are reflected in both versions of the bill. I refer specifically to the President's proposals regarding national air quality standards, State adoption of implementation plans covering the whole area of every State, emission standards applicable to major new stationary sources of air pollution and to hazardous emissions from all stationary sources, expanded and streamlined enforcement powers, assembly-line testing of motor vehicles, and regulation of fuels and fuel additives.

We are, therefore, fully in accord with the objectives and the essential features of both the House and Senate bills. In our judgment, however, both bills have certain provisions that should be modified in the manner recommended below. While this letter makes reference to the Secretary of HEW throughout, as do both bills, we note that the Senate bill has the effect of vesting these authorities in the Administrator of the Environmental Protection Agency, as contemplated by Reorganization Plan Number 3 of 1970.

Automobile Emissions. The Senate bill would require, under provisions that have no counterpart in the House bill, that certain automobile emissions be reduced by 90 percent from the 1970 levels by 1975, unless the Secretary of HEW extends this period for one year, which extension would be subject to judicial review.

The objective of these provisions is to accelerate substantially the current timetable for controlling automobile emissions. The Senate bill does this by making effective in 1975 the standards administratively projected to take effect no later than 1980. We fully support the objective of accelerated control of automotive air pollution and support the proposed establishment of 1975 as a target date for achieving the proposed 90 percent reduction.

Based on the information available to us at this time, we are uncertain whether the requisite control technology will be developed and reduced to commercial practice on a mass-production basis by 1975–76. This presents the Federal government with a dilemma. On the one hand, if, despite a maximum effort, the necessary control technology cannot be developed and put into production, then emissions cannot in fact be reduced to the levels sought. On the other hand, the prospect of repeated deadline extensions based simply on the absence of control technology gives rise to an understandable concern that automobile manufacturers may not press the development of such technology and its application as rapidly as they should to meet air quality requirements.

The Senate bill would resolve this dilemma by providing an absolute statutory deadline of 1976, despite the fact that the very basis the bill provides for the single extension from 1975 to 1976—that all good faith efforts have been made to meet the standards, but no effective control technology has been developed—would logically justify additional extensions for a manufacturer on the basis of similar findings.

We believe that provision for additional extensions of the deadline can be made while at the same time assuring maximum effort by the manufacturers, as sought by the Senate bill. To accomplish this, we suggest that, using the 1975 standards as a yardstick, the manufacturers' efforts be examined periodically by a highly competent, impartial body outside of Government—the National Academy of Sciences and/or the National Academy of Engineers would be eminently qualified to play such a role. (We understand the conferees are interested in using the Academies in a manner that may be related to this proposal.) Such examination should involve periodic determinations of the manufacturers' level of effort and judgment as to the progress in developing adequate control technology, and its application to mass production. The results of such examinations would keep the Congress and the Secretary informed of the manufacturers' efforts and progress toward meeting the standards and provide the Secretary with a basis for determining whether to grant or deny any extension which a manufacturer might seek. It seems to us that such a procedure would provide a more orderly and equally beneficial process for achieving the results sought by the Senate bill.

We would also favor two other changes in the provisions of the Senate bill with respect to automobile emission standards. *First*, there is a serious question whether the bill, in fixing January 1, 1973 as the earliest time a manufacturer could seek a deadline extension, gives proper recognition to automotive production lead times. Establishing *any* specific date in the bill seems unnecessary to us, however, and we recommend that this matter be left up to the judgment of the Secretary. There is clearly a natural regulator at work here, since the earlier a manufacturer might seek an extension, the less credible would be its claim that it had made a good faith effort to meet the standards. *Second*, we also recommend that, instead of providing for essentially de novo judicial review of the Secretary's decision with regard to an extension request, the bill should provide for the customary more restrictive scope of judicial review.

Warranty of Automotive Pollution Control Systems. In provisions that again have no counterpart of the House bill, the Senate bill requires, effective 90 days after appropriate test procedures have been established, that the automobile manufacturers warrant that their pollution devices will meet prescribed emission standards for 50,000 miles.

In testimony before the Senate committee the Administration supported the principle of requiring a manufacturer's warranty of control devices, and we continue to support this principle. However, we regard the 50,000 mile warranty as inappropriate and unrealistic in the light of known technology and experience.

At the present time neither the Federal government nor the manufacturers have sufficient or reliable knowledge as to why, in some cases, a particular automobile in actual use fails to meet emission tests. This being the case, substantial and no doubt

lengthly research and studies would have to be undertaken before the Secretary could, with any confidence, promulgate defensible test procedures, which under the bill would make the manufacturers liable for the satisfactory performance of emission devices for 50,000 miles. Thus, the provisions of the Senate bill could have the unintended result of actually delaying the imposition of *any* warranty requirements for a long period of time. If on the other hand the Secretary were to promulgate test procedures before the Government or the manufacturers better understand why some automobiles fail to meet emission requirements, manufacturers would almost certainly price the warranty at a level which would fully protect them from this lack of knowledge. Also, the manufacturers could understandably specify extremely stringent maintenance requirements as a condition of the warranty. Since most car owners would have little incentive to comply fully with all of these requirements, the warranty would be unenforceable in many cases and would make virtually no contribution to control of air pollution.

We favor including a provision in the bill which would authorize the Secretary to impose warranty requirements on the manufacturers as he determines that such requirements can be justified on the basis of adequate operating knowledge that has become available. Such warranty requirements could be made more stringent as more knowledge and experience in these matters are gained, with a view toward progressing to the goal of a 50,000 mile warranty requirement on all new automobiles. We also favor requiring from the outset a manufacturer's warranty against defects in material and workmanship.

State Vehicle Emission Standards. The Senate bill, in provisions not contained in the House bill, would empower States to fix special emission standards for new vehicles more stringent than the standards fixed by this legislation if the States could prove to the satisfaction of the Secretary that such action were necessary to meet air quality standards in regions within their jurisdiction.

We believe that existing law properly provides for Federal preemption of emission control standards for new vehicles, in recognition of the need for uniformity and the inability of manufacturers to produce different types of vehicles for a number of States. In addition, as a practical matter there would appear to be very little further reduction in automobile emissions available to the States, in view of the stringent Federal emission standards contemplated by the Senate bill for 1975. We recommend that the present Federal preemption concept be retained without change, and that the States attain air quality standards by the ample variety of other means contemplated by the bill—including control of emissions from other than new cars, and, if necessary, traffic controls.

Export Vehicles. The Senate bill would eliminate a provision in the existing Clean Air Act which exempts new motor vehicles and engines manufactured solely for export and sale abroad from applicable emission standards. The House bill would make no change in existing law in this regard.

We are unaware of any rationale to support this proposed change, and we believe that the considerations which supported the present export exemption provision are still valid. The emission standards adopted by a number of foreign countries on the basis of their air pollution control needs probably will continue to be significantly less stringent than the emission standards contemplated by the Clean Air Act. American motor vehicles are required, of course, to comply with applicable foreign emission standards, and requiring them to comply with the differing American standards could seriously prejudice their competitive position abroad.

Mandatory Licensing. The Senate bill compels holders of patents, trade secrets, or know-how on pollution control devices to grant licenses to all applicants for the use (upon payment of reasonable royalties) of these devices, if the Secretary of HEW determines that this is necessary to facilitate compliance with air pollution standards for automobiles, aircraft, and vessels, for hazardous facilities, or for new stationary sources. There are no comparable provisions in the House bill.

The constitutionally-recognized protection which patents afford has been a key element in encouraging innovation, and we are seriously concerned as to what the ultimate effects of this major change in policy might be. In particular, we are uncertain as to its possible deterrent effects on the incentive to invent in the pollution control field, where the need for innovation is so great. Moreover, we are not aware of the basis for assuming that developers of essential air pollution control technology would refuse to make it available either by license or direct sale to the users.

We recognize that this authority is permissive, and that the report of the Senate Public Works Committee emphasizes that very restrictive use should be made of it. Despite this, we are not convinced of the need for such a basic change in policy in light of its potential adverse effects and in the absence of known abuses. If in the future a situation arises in which a refusal to make technology available threatens to jeopardize the national air pollution control effort, Congress can then legislate to meet the particular problem.

Citizen Suits. The Senate bill authorizes citizens to bring civil actions against alleged polluters (including governmental entities) or against the Secretary of HEW to enforce compliance with the requirements of the Act. There are no comparable provisions in the House bill.

In authorizing citizen suits directly against alleged polluters, this provision builds on the trend of existing law, and we do not object to its enactment. Such suits can contribute to the effective enforcement of air pollution control measures.

However, the authorization of citizen suits against the Secretary to force him to take enforcement action in a particular case would have the unintended result of reducing the overall effectiveness of our air pollution control efforts by distorting enforcement priorities that are essential to an effective national control strategy. Therefore, we recommend the deletion of that portion of the provision authorizing suits against the Secretary. This deletion will not affect the right of citizens to move directly against alleged polluters, including Federal agencies.

We note that the Senate bill contains no express provisions either requiring bonds to be posted as a condition for granting preliminary injunctions (i.e., injunctions granted before full hearings) or explicitly stating the authority of the courts to fit final relief to the equities of the case. Adequate bonds and flexibility of relief can be very important in cases of this type. However, we trust that the courts will exercise their existing authority to fix preliminary injunction bonds at levels sufficient to protect any defendants later found upon full hearing to have complied with the Act and to frame final orders that fully take into account all of the circumstances of the case.

State Implementation Plan Deadlines. The Senate bill provides that within nine months after promulgation of any national ambient air quality standard each State is to submit to the Secretary for approval an implementation plan for each air quality control region, providing for the attainment of the standard within three years after approval of the plan. In addition to limited Secretarial authority for extensions based on new information, provision is made in the bill for judicially-granted one-year extensions of the three-year deadline, upon petition of the Governor of the State concerned (subsequent to the approval of the implementation plan) if the Court determines that such relief is in the paramount interest of the U.S. and that means to control the emissions have not been available for a sufficient period of time. The House bill contains no such provisions.

In providing for extensions of this deadline subsequent to approval of the implementation plan, the Senate bill plainly concedes that cases may very well arise where mariginal or inadequate emission control technology would render it impossible to meet the standard within the three-year period. Although both the State and the Secretary might agree that this is so at the time an implementation plan is submitted for approval, the Senate bill forbids the Secretary from approving anything but a three-year implementation plan, which in due course probably would be appealed by the Governor. The net effect of the bill's provisions in such cases would be to place both the Secretary and the State concerned in the untenable position of approving an implementation plan they know is unrealistic and probably unworkable.

To avoid this type of situation we favor an amendment which would, in the few cases where it might be necessary, permit the Secretary to extend the deadline at the time the State's implementation plan is being reviewed and approved. Such extensions should only be made if the Secretary determined that adequate control technology is not available and is not likely to be available, and he should be required to make public his determination and the specific grounds on which it rests. Moreover, once beyond the three-year period the Secretary should determine periodically whether adequate control technology is available and make known his findings and any requisite compliance determinations resulting therefrom.

Certification of New Sources. The Senate bill establishes a Federal requirement (which could be delegated to the States) to certify that all new stationary sources of emissions meet Federal performance standards reflecing the latest available control technology and processes. Such certification would involve (a) preconstruction review of locations and design of any new source, (b) performance tests within a reasonable time after operation commences, (c) methods to identify violations and enforce compliance, and (d) methods to assure that any new source will not prevent implementation of national air quality standards or goals. The House bill contains no comparable provisions.

We feel that this certification procedure is overly elaborate and would impose a heavy and unnecessary burden on both the Government and industry. Moreover, industry would appear to have ample incentive for preconstruction consultation with responsible officials even without this special mechanism. We see no reason why performance requirements could not be established and enforced in the same manner as other emission requirements. If compliance with performance standards were made part of a State's implementation plan, these adverse consequences would be avoided and there would also be the additional benefit of placing the basic enforcement responsibility in the State, as is generally the case under the Act, rather than in the Federal Government, as the Senate bill provides.

While we recommend that basic enforcement of performance standards should be in the States, we favor retaining the provision of the Senate bill which allows the Secretary

to enforce these standards without being required to make a finding that a State has failed to perform adequately. We also would favor a similar pattern for the enforcement of emission standards established under section 114 of the Senate bill.

We can see merit to a statutory requirement that the emissions from all new sources would have to be measured at the time (or within a reasonable time thereafter) they begin operations, and we would support the retention in the bill of provisions to accomplish this purpose.

National Security Exemptions. The Senate bill authorizes the President to exempt Federal property, facilities, vehicles, or vessels from applicable emission standards, whenever he determines that this is necessary in the paramount interest of the United States. The bill also authorizes the Secretary of Defense to defer for one year, if necessary for the purpose of national security, the applicability of emission standards to military aircraft and vessels. The comparable provision in the House bill, which covers only emissions from new stationary sources, carries out the Administration's recommendations for exemptions by the Secretary of HEW when he determines they are necessary for the purpose of research, investigations, studies, demonstrations. or training, or for reasons of national security.

We would support the approach of the Senate bill, if aircraft are included under the Presidential exemption provision, since the reasons for authorizing exemptions for all other Federal facilities, vehicles, and vessels are equally applicable to aircraft, particularly combat aircraft. We also believe that the Presidential exemption should be made applicable to non-Federal facilities, since there could conceivably be instances where their exemption would be as much in the paramount interest of the U.S., as would be the exemption of Federal facilities.

Hazardous Emissions. The Senate bill requires zero emissions from facilities determined by the Secretary of HEW to be emitting pollutants hazardous to health even in trace amounts, with a specified timetable for compliance and enforcement, unless the owner of such facility can demonstrate that continued operation (under applicable emission standards) will not endanger the public health. The House bill contains no comparable provisions.

Of course, hazardous emissions should be effectively and quickly controlled, as was recognized in the Administration's bill. Because the Senate bill in Section 114 gives the Secretary general authority to set emission standards, down to zero levels, for all facilities, we think the Secretary should have the flexibility to deal with hazardous emissions on a priority basis within this general authority. In fact, the Secretary could move more swiftly and equally effectively under such general authority, in Sections 114 and 116 of the Senate bill, than he would be able to under the special hazardous emission control procedures contained in Section 115. Accordingly, we recommend deletion of Section 115 of the Senate bill, and any necessary modifications of Section 114 to fully cover hazardous emissions.

Low Emission Vehicle Procurement. The Senate bill requires the Federal Government, in provisions not contained in the House bill, to procure vehicles determined to be "low emission", and authorizes premium prices to be paid for such vehicles.

These provisions were contained in a separate bill added by amendment on the Senate floor. We had recommended a number of modifications in these provisions in comments on both that separate bill and a comparable bill in the House. We continue to support these changes, and particularly feel that there should be discretion in the President with respect to procurement of these vehicles in order to assure realistic accommodation to budgetary priorities and the special vehicular needs of the Government, and to permit orderly procurement should there be a number of "low emission" vehicles to select from.

Fuels and Fuel Additives. The House bill contains a number of restrictive provisions on the authority to fix standards respecting the composition of fuels or fuel additives. For example, standards on fuels and fuel additives could be fixed under this authority only if the Secretary could show that it is not otherwise technologically or economically feasible to achieve automobile emission standards. The Senate does not contain similiar restrictions.

The Administration recommended broad authority to regulate fuel and fuel additives, because it believed that such authority, in conjunction with controls over sources using such fuels, is necessary in order to mount the most effective overall attack on air pollution. We recommend, therefore, that these provisions be modified to conform with the Administration's air pollution bill, the essential provisions of which on this matter are incorporated in the Senate bill.

Also in connection with fuels, we would recommend that authority over aviation fuels and additives be lodged in the Secretary of HEW, who will have jurisdiction over all other fuels and additives, rather than being placed in the Administrator of the Federal Aviation Administration, as the House bill provides.

Personnel. Two troublesome provisions of the Senate bill, relating to personnel who would be authorized to participate in carrying out the Act's requirements, raise serious precedential and administrative problems and we urge their deletion. There are no comparable provisions in the House bill.

Section 10 of the Senate bill would authorize a sweeping exemption from the customary Civil Service appointment and classification laws, as they relate to the procurement of personal services to carry out the Act's requirements. We believe that the personnel needs of the air pollution control program, like similar needs in other urgent Federal programs, can be met within the Civil Service framework. In addition to creating a most undesirable precedent, this provision would constitute a marked departure from a long-standing Federal policy against the performance of clearly governmental functions by non-governmental personnel, which is of particular concern in this instance due to the important regulatory and enforcement actions to which such work could give rise.

The Senate bill provides in various sections, but most notably in proposed Section 305 of the Act, that attorneys appointed by the Secretary would be authorized to represent him in suits brought by or against the Government under the Act's provisions. Such authority is at odds with long-standing Federal policy of this and prior Administrations of placing litigating authority in the Attorney General, to be exercised as he deems appropriate. This policy derives from the sound administrative practice of relying on the Justice Department's established legal expertise and resources, rather than promoting the duplication of such expertise and resources in each of the Federal departments and agencies. We favor deleting Section 305 (as well as making comparable conforming changes in other provisions of the bill), the result of which would be that in actions instituted under this Act, officers of the Department of Justice under the direction of the Attorney General would appear for and represent the United States or any officer or agency thereof, including the Secretary.

Procedural and Technical Changes. We believe that there are a number of places in both the Senate and House bills where changes in procedural and technical provisions would avoid unintended results and materially improve the legislation. We would like to furnish such changes to the conferees informally along with the revisions needed to carry out the amendments recommended in this letter. In view of the sweeping and widespread implications of this bill, and in order to avoid, to the greatest extent possible, litigation that could slow down its implementation, we believe you will agree that its complex provisions need to be drafted with the greatest possible care and precision.

In conclusion, we would like to reiterate the Administration's strong support for the effective control of air pollution by legislation embodying the major features of the House and Senate bills. Accordingly, we recommend the enactment of such legislation, incorporating the recommendations made above, during this session of the Congress.

The Office of Management and Budget advises that enactment of H.R. 17255, if amended as recommended in this letter, would be in accord with the program of the President.

Sincerely,

ELLIOT RICHARDSON,
Secretary.

Mr. COOPER. Mr. President, Elliot Richardson is a man of quality and integrity. He would not make statements to the Senate and to the Senate Public Works Committee which were in contradiction to his deeply held views.

The administration has made, from time to time, recommendations relating to the whole field of the environment and particularly on pollution control. It has responded more to these problems than any administration we have known.

I have always, and do now, pay tribute to the chairman of the subcommittee, whose leadership in this field is known not only to Congress but to the country. I pay tribute to the chairman of the Public Works Committee. I have served on this committee, I suppose, longer than anyone else on the committee. I served 2 years in the Senate in 1947 and 1948, and I was on that committee. We passed in 1948 the first pollution control bill. It was small in scope, but a good one, and was sponsored by the late Senator Robert Taft of Ohio and the late Senator Alben Barkley of my State of Kentucky.

We have been fortunate that Democrats and Republicans have served together under fine leadership. We have laid aside political matters. We have worked openly and honestly with each other. For that I am thankful, and I am sure that the Senate is thankful. But, in my opinion, I must say I think it is unfortunate to interject political views as we come to the point of approving what has been termed as the most complex, and one that will perhaps have greater significance and impact than any bill in this century. So I regret that those speculations have been made. I hope we will continue to go forward and work as we have in the past.

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

Mr. RANDOLPH. I yield.

Mr. MUSKIE. Mr. President, I made the statement earlier that I was disturbed by the Elliot Richardson letter, and I was. But I concede that to discuss it, in connection with this conference report is unfortunate. Whatever opinions we had about it we could discuss elsewhere, and we could discuss them as we wished. I wish the issue had not arisen most of

all because the Republican side of this subcommittee and this committee has cooperated so wholeheartedly over so many years in the development of this legislation. I refer to the Senator from Kentucky, the Senator from Tennessee, the Senator from Delaware, the Senator from Florida, and the Senator from Kansas. There has never been the slightest bit of partisanship in any of our committee deliberations or in our conference work with each other over a period of some 7 or 8 years now. I want to underscore what my good friends from the Republican side of the aisle have said on that point this afternoon.

I want to say to them that I do regret that this argument has arisen this afternoon. I hope we will proceed now to dispose of the conference report.

I know the Senator from West Virginia desires to put some questions to me.

Mr. RANDOLPH. Yes; I do wish to do that.

Before doing so, I repeat that this legislation represents a significant achievement in the evolution of our national environmental policy—an evolution which has been carried forward, in great degrees, by the leadership of the Senator from Maine (Mr. MUSKIE). I think that we have to insure the protection of the health of the citizens of this Nation, and we have to protect against environmental insults—for when the health of the Nation is endangered, so is our welfare, and so is our economic prosperity.

I think that the emphasis here on the health benefits that will follow when implementation of the bill becomes law is very important.

I now ask the distinguished chairman of our subcommittee whether it is not a fact that, when we have dealt with previous legislation, we have concentrated primarily on the immediate problems of air pollution control and the environment, and it seems to me now that we are providing additional enforcement for those existing sources of air pollution, but, more significantly, we are providing effective means of prevention of future air pollution problems.

Is that the feeling and the understanding? I believe the record should reflect it.

Mr. MUSKIE. Yes; I think that to a greater extent than we might have in past legislation, we are undertaking to deal with the long-term aspects as well as the short term. I would agree with that.

Mr. RANDOLPH. And provision is made for performance standards for new stationary sources, to make sure that no industrial development will degrade the quality of the air so as to endanger public health and welfare, or interfere with and restrain further economic growth. I know at times on the subcommittee and on the committee we have talked about the economics of this legislation as well as the health standards of the legislation, and I know that the Senator from Maine has been one of those who have recognized that this legislation is both an economic measure and an air pollution measure.

I believe that is correct; may I inquire whether the Senator shares that view?

Mr. MUSKIE. The Senator is correct. It undoubtedly will have an economic impact all across this country.

Mr. RANDOLPH. Yes, it will, and it will be costly. And yet the ugly face of pollution must be erased.

The implementation of the policies that are contained in this measure will test the determination in this country to achieve a livable environment, not only for ourselves but for future generations. In turn, the legislation will test the willingness of the citizens—not just the various levels of government, but the citizens of this country—to control, abate, and prevent environmental pollution. And I wish to compliment the Senator from Maine that, in his addresses throughout the country, in his presentation of these problems before audiences on college campuses and elsewhere, he has emphasized the personal obligation which must be recognized—a rebirth, I should say, of responsibility on the part of the individual citizen of this country.

Is that the feeling of the Senator from Maine?

Mr. MUSKIE. Completely, may I say to the Senator. We cannot clean up the pollution problem with a piece of legislation. There has to be commitment to it by every citizen, not only with respect to the activities of others, but with respect to each citizen himself, to deal with this problem.

Mr. RANDOLPH. Yes. I appreciate the Senator's attitude.

I conclude by saying that ultimately each and every person will be called on to pay the increased costs—and we must not forget it—associated with the achievement of an environment that, at a minimum, does not endanger public health, for, frankly, if we do endanger public health, we shall have degraded the environment. Effective implementation will require a major commitment, as the Senator from Maine has said, of Government and of industry, of course, but also—and I appreciate his stressing its importance, as I have—of each individual citizen.

I am pleased that the House conferees have made an authorization of $1.1 billion for fiscal years 1971 and 1972. These figures represent the magnitude of the commitment that will be necessary to meet the challenge that is ahead. The next step must be to provide Federal staffing—and I think this is most important—commensurate with the effective implementation of what we are doing today. We must not allow understaffing —the Senator from Maine has discussed this matter in our subcommittee and our committee, and in conference—of this Federal program, because if that happens, it will be a major interference with the implementation of the National Air Quality Standards Act of 1970, as was the case, very frankly, in connection with the Air Quality Act of 1967.

I commend all those who have worked within the conference and all those who have worked within the House of Representatives and the Senate, and especially I commend the chairman of the conference, Representative HARLEY O. STAGGERS, who was a strong advocate, a fair negotiator, and a patient chairman. I commend also the very able chairman of the Senate conferees, my friend, Senator MUSKIE, and all the members of the Committee on Public Works and their staff, both majority and minority, who have put so many long hours into a bipartisan effort to bring forth what will be the most effective pollution control legislation yet enacted by the Congress.

Mr. SPONG. Mr. President, the conference report before the Senate, when fully implemented, will assure an accelerated rate of progress in our national effort to improve the quality of our air environment.

The Senate conferees acceded to several modifications in the bill approved unanimously by the Senate on September 22, 1970, but the final product is an effective and far-reaching environmental protection measure.

The conference report would establish as 1975 standards the automobile emission goals previously proposed for 1980 for carbon monoxide and hydrocarbons. We have accelerated by 1 year the date on which automobile manufacturers may seek an extension of that deadline. By allowing such applications to be filed on January 1, 1972, we have taken into fuller account the leadtime problems of the automobile industry.

The report also would enable the Administrator of the Environmental Protection Agency to set interim standards in the event he finds technology is not available to meet the standard provided by law. The Administrator, in making a decision on interim standards, would have the benefit of reports from the National Academy of Sciences on the progress that has been made in the development of technology and knowledge of the good-faith effort of the industry to meet the 1975 deadline.

The report sets a deadline of 1976 for meeting the standard for oxides of nitrogen, with provision for a 1-year extension. Automakers could apply for that extension on January 1, 1973.

The thrust of the section of the Senate bill requiring the establishment of national emission standards for hazardous substances has been changed. The Senate measure required the publication of a proposed prohibition of emissions of hazardous substances. The conference report requires the Administrator of the Environmental Protection Agency to publish a list of pollutants which in his judgment is extremely hazardous to public health. He would subsequently publish proposed regulations establishing emission standards. The modified provision requires the Administrator to "establish any such standard at the level which in his judgment provides an ample margin of safety to protect the public health from such extreme hazard."

The conference report retains concurrent Federal-State jurisdiction over enforcement activities, although the final product is a combination of the Senate and House approaches to the matter. We agreed that in situations where a State has primary enforcement responsibility, the Administrator of EPA would be required to give the State 30 days notice before issuing an order or seeking court action. The Administrator may act without notice to the State in cases where

the Federal Government has primary enforcement responsibility.

Both bills provided for the establishment at the Federal level of national ambient air quality standards, and that concept is of course in the conference report. Implementation plans to be prepared by the States to meet the standards must provide for achieving the standards within 3 years. Again, there are provisions for an extension in the event technology is not available.

I wish to emphasize, Mr. President, that the implementation plans to be prepared by the States to meet the primary national air quality standards must include provision for land use and transportation controls. In my judgment, the term transportation controls is not restricted to motor vehicles. For some areas, the implementation plans may well specify a limitation upon the number of civil aircraft which may land at any airport within such areas. Such restrictions may be necessary in certain metropolitan areas in order to meet the ambient air quality standards.

The conference substitute retains the Senate provision for citizen suits against violators, although suits against the Administrator of the Environmental Protection Agency are limited to actions in which there is an alleged failure by the Administrator to perform mandatory duties imposed by the statute. Before a suit can be brought, 60-day notice must be given to the alleged violator, the Administrator and the State. The courts are given discretionary authority to award costs, including reasonable attorney and witness fees, to any party.

Mr. President, I understand the purpose of that section of the report which establishes a mechanism for the licensing of patents to those subject to emission standards to be set under the legislation. It is our intent to provide an assured supply of technology to all needing it to comply with the standards.

After reflecting upon the implications of the section, I would have preferred that the issues involved be reviewed by the Judiciary Subcommittee on Patents, Trademarks, and Copyrights. However, the conference report language on the matter is an improvement over the provisions in the Senate-passed bill. The section will not become generally operative for at least 2 years, and in the interim I would hope that the issues involved will be the subject of hearings and review.

Mr. President, the conference committee has devoted many hours of arduous work on its report. It has been a rewarding personal experience because of the dedication of those involved to see the objective of protecting the public health. I wish to thank and commend the Senator from West Virginia (Mr. RANDOLPH) and the Senator from Maine (Mr. MUSKIE), the distinguished chairmen of our committee and subcommittee, for their leadership during the development of this legislation. I also wish to pay tribute to the invaluable contributions of the Senator from Missouri (Mr. EAGLETON), the Senator from Delaware (Mr. BOGGS), the Senator from Kentucky (Mr. COOPER), and the Senator from Tennessee (Mr. BAKER).

Mr. President, I wish to echo what has been said about the bipartisan approach to this legislation. As a member of the subcommittee and as a conferee, I can attest that Senators on both sides of the aisle have participated on a nonpartisan basis.

I should like to ask the Senator from Maine to answer one question. Section 110 of the conference report requires the development of implementation plans by the various States, and the approval of such plans by the Administrator. Paragraphs 2 and 2(B) of the section, governing those plans, read as follows:

(2) The Administrator shall, within four months after the date required for submission of a plan under paragraph (1), approve or disapprove such plan or each portion thereof. The Administrator shall approve such plan, or any portion thereof, if he determines that it was adopted after reasonable notice and hearing and that—

(B) it includes emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls;

I should like to know if, in the opinion of the Senator from Maine, the term "transportation controls" is limited to motor vehicles.

Mr. MUSKIE. No; I think that that phrase ought to be considered in a much broader context, if we are to fully understand what the intent of the legislation is.

It seemed to the committee that transportation policies must be developed or improved to insure that the impact of pollution from all existing moving sources—automobiles, aircraft, trains, vessels, and so on—is reduced to the minimum compatible with the needs of each region.

For example, construction of urban highways and freeways may be required to take second place to rapid transit and other public transportation systems. The use of motor vehicles may have to be restricted and, in some congested areas, the number of operations of aircraft into an airport may need to be limited, or steps taken to reduce emissions while aircraft are on the ground.

If such controls are required, the committee believes the plan for implementation should so provide. If the plan is approved, Congress expects the Federal regulatory agencies to take the steps necessary to assure compliance with the plan; because what is involved in these greater urban areas, from the standpoint of air pollution, is the whole complex of residential patterns, employment patterns, and transportation patterns—the way in which people move about, go to their work, and live—and all of this ought to be subject to modification, and must be modified if the objective of clean air is to be achieved.

Mr. SPONG. I thank the Senator from Maine.

Mr. MUSKIE. Mr. President, I yield to the Senator from Delaware.

Mr. BOGGS. Mr. President, I thank the distinguished chairman.

I wish to express strong support for the conference report on these amendments to the Clean Air Act. This bill, I think, is the most far-reaching and important legislation for the control of air pollution ever to be considered by the Congress.

In time, it will bring our Nation clean air and a healthier environment.

It should be pointed out that this bill follows closely the concepts created in the legislation passed in September by the Senate. Further, it adheres in many details to the concepts and recommendations offered by the administration as long ago as last February.

Mr. President, I share the thoughts of the distinguished chairman of the subcommittee—I know how sincere and dedicated he is—when he stated that he regrets the partisan nature of the discussion of Secretary Richardson's letter. I share his feelings. I, too, am sorry that occurred. The chairman has pointed out, as have others, that we have maintained an absolutely bipartisan approach on environmental questions, certainly a major problem confronting our country. I have every confidence that it will continue to operate in a bipartisan manner. Therefore, I stand with the chairman of my subcommittee in regretting that the incident occurred.

In conclusion, Mr. President, I commend the leadership and cooperation offered by the distinguished chairman of the Committee on Public Works, Mr. RANDOLPH, the distinguished Senator from Maine (Mr. MUSKIE), the distinguished ranking Republican member of the committee, Mr. COOPER, the distinguished Senator from Tennessee (Mr. BAKER), and the distinguished Senator from Kansas (Mr. DOLE). Each has been most cooperative and helpful in studying a very difficult and complex subject. This legislation is going to involve not only the Federal Government but every other level of government—the States, the cities, the counties—as well as public and private organizations. In actuality, it will affect and benefit every individual in our country.

In addition, I wish to commend Representative STAGGERS of West Virginia, the chairman of the House committee, and the other conferees on the part of the House. And I thank the staffs of both the committees and the Members for their excellent assistance.

The conference was long and painstaking. It has produced a conference report that I believe will bring to the Nation effective control of air pollution. This bill is a credit to the country. I strongly commend it to my colleagues.

Mr. MUSKIE. I thank the Senator.

I yield to the distinguished Senator from Rhode Island.

Mr. PASTORE. Mr. President, I commend my distinguished colleagues, the Senate conferees, for the compromise legislative product which is now before us.

I would have liked to have had more opportunity to review the House-Senate conference report and all the details of these very important amendments to the Clean Air Act, but I recognize that expedition is mandatory if we are to deal with the major items of legislation still before the Senate at this session.

I did take the time to study the bill carefully to ascertain that the new amendments to the Clean Air Act will not interfere with or change the present statutory framework and implementing regulations for controlling radiological effluents from nuclear facilities. The new Environmental Protection Agency and the Atomic Energy Commission now have certain authorities and responsibilities with respect to such matters as radiation protection standards or the regulation and control of radiological effects from nuclear facilities. Under our present statutes we have very excellently safeguarded health and safety in regard to the use and regulatory control of nuclear facilities, and in my judgment it would have been unwise and potentially dangerous for a generally comprehensive legislative measure such as the one before us to dilute or interfere with our presently governing requirements.

I again want to congratulate my distinguished colleagues for bringing about this compromise, for doing a splendid job, and for rendering such an excellent public service.

Mr. MUSKIE. I thank the Senator from Rhode Island. He has accurately stated the effect of the bill on the point he has raised. I am happy to endorse his view of it.

I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, today the Senate members of the Conference Committee on the Clean Air Amendments of 1970 bring back for final action a bill which has been described as perhaps the most significant domestic legislation of the decade. The action today represents the culmination of a thorough exercise of the legislative process, beginning with 20 days of hearings in the subcommittee, followed by more than a dozen executive sessions of the subcommittee, more than 10 executive sessions of the full committee, 2 days of debate on the Senate floor in September and, finally 12 conference meetings with the House in order to bring to the Congress this conference report.

I would like to note for the RECORD that the number of conference meetings with the House was in no way related to any attempt or desire to obstruct or delay on the part of any Member of the Senate or the House conferees. Rather, it simply reflects the degree of the differences between the House and Senate bill and the great scope of the legislation. Every Member had the same objective, and the conference report before the Senate is truly a historically significant bill.

Great credit is due to the cochairmen of the conference committee of both Houses, Representative STAGGERS of West Virginia and Senator MUSKIE. Of course, special credit is due to Senator RANDOLPH, chairman of the Senate Committee on Public Works, and to Senator BOGGS, the ranking minority member of the subcommittee on Air and Water Pollution. But I would like to add that this conference was very well attended by all Members and I am especially proud that Senator BAKER and Senator DOLE on the minority side contributed so much in the development of this conference report.

The staffs of both committees also deserve special credit, for not only has the work been difficult and heavy with responsibility, but also, the parliamentary situation has compressed the time available and they have performed magnificently. Their work was most helpful, and I think their names should be placed in the RECORD.

It would be difficult to single out any provision in this bill for special attention. I think it represents a firm application of pollution control procedures, while at the same time being just and incorporating throughout, due process and fairness. The bill provides many procedural protections and involves the judicial branch of Government to a degree never before attempted in programs to achieve environmental quality.

The bill will place great responsibilities on nearly every aspect in our society. It certainly will place great burdens on industry, it will place great burdens on Government, both at the State and Federal level, and it will place great burdens on the people generally for they will ultimately have to bear the expense and, for the first time, possibly experience inconvenience so that we might achieve clean and healthful air. The provisions ask for the highest quality of Government activity, and I am pleased that the bill will become law nearly coincident with the establishment by the President of the Environmental Protection Agency. The administration of that agency is entrusted to Mr. Ruckelshaus, who I believe is an excellent choice to control the exercise of the many duties and responsibilities of the Federal Government under this law.

With the passage of this bill the time for resolute action has come, action that must not be based on recrimination or punishment, but based on the fair application of the law. The burdens are great and I trust that the Federal Government, State government, industry, and the people will all work together to achieve this goal.

Mr. MUSKIE. I thank the Senator. As he has said, the staff work has been superlative throughout the consideration of this measure.

In addition to the work of committee, Chief Clerk Richard Royce, Minority Clerk Bailey Guard, and Counsel Barry Meyer, the staff of the subcommittee including Leon Billings, Dick Wilson, Dick Grundy, Phil Cummings, Becky Beauregard, Frankie Williams, Sally White, Eleanor Putz, and the minority staff including Tom Jorling, Harold Brayman, Adrien Waller, Hester Dungan, and Ann Brown are to be congratulated.

Several staff members of Senators were also essential in the development of this legislation including Eliot Cutler of my staff, Allen Jones of Senator SPONG'S staff, Bob Maynard of Senator EAGLETON'S staff, Jim Jordan of Senator BAKER'S staff, and Ward White of Senator DOLE'S staff.

Mr. BOGGS. I share your views of the staff and their performance. It has been terrific.

Mr. MUSKIE. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I concur in the remarks made by the distinguished Senator from Kentucky.

My staff and I have had occasion from time to time to consult and work with members of the staff of the Air and Water Pollution Subcommittee. They are all superbly able and cooperative and are making a great contribution to the environmental problems presented to that subcommittee.

I did not know that the conference report was going to be brought up today, so I did not have an opportunity to prepare any remarks. However, I do wish to say that the committee members on both sides of the aisle are to be commended for coming up with such a landmark piece of legislation.

I particularly want to say that this bill is a great credit to Senator MUSKIE, whose record in terms of his concern, his activities, and his constructive efforts in the environmental field are unexcelled by anyone else in public life. Today we see before us another solid environmental achievement from Senator MUSKIE and a landmark piece of legislation. I join all those who are concerned about the environment in commending him for his tremendous contribution.

Mr. MUSKIE. I thank the distinguished Senator from Wisconsin. My greatest regret in the work of this committee was that the Senator from Wisconsin left the committee several years ago. Yet, he has not abandoned his interest in this field. Indeed, he has continued to be a leader nationally in all environmental questions. It is always helpful to have his close interest and attention—and even prodding from time to time—to help us in our work.

Mr. DOLE. Mr. President, I join my colleagues in urging approval of the conference report on the Clean Air Amendments of 1970.

We are all familiar with the need to prevent the further deterioration of our air. Early this year, President Nixon devoted a major portion of his environmental message to the problem of air pollution.

The need was clear, and in response, the Subcommittee on Air and Water Pollution and the full Public Works Committee carefully considered and reported out a bill we felt would contribute to preserving and protecting our environment. Amendments were accepted on the Senate floor which improved that bill. But the legislation we have before us today combines the best elements of the House and Senate bills.

Everyone will not be completely satisfied with the final version of H.R. 17255, but it represents our best efforts to act with the knowledge available to us at this time in an affirmative but constructive manner. It is possible that we will face unanticipated problems in the future, but the Congress will have the opportunity to review the Clean Air Act upon its expiration.

I would point out that the passage of this act does not mean we will eliminate air pollution overnight. It would be impossible to physically accomplish that fact. But it does mean we have taken a

substantial first step. It is now up to government at all levels, private industry, and every individual American to make this act work.

I commend my colleagues on the subcommittee and the full committee for their long but fruitful work on this important legislation, and urge approval of the conference report.

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 agreed to the following concurrent resolutions, in which it requested the concurrence of the Senate:

H. Con. Res. 771. Concurrent resolution for the printing of environmental report;

H. Con. Res. 785. Concurrent resolution authorizing the printing as a House document the book entitled "Our American Government and How It Works: 1,001 Questions and Answers"; and

H. Con. Res. 790. Concurrent resolution to provide for the printing of 5,000 additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor entitled "Discrimination Against Women."

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolutions:

H.R. 6114. An act for the relief of Elmer M. Grade and for other purposes;

H.R. 6400. An act for the relief of Reddick B. Still, Jr., and Richard Carpenter;

H.R. 15549. An act to amend title 10, United States Code, to further the effectiveness of shipment of goods and supplies in foreign commerce by promoting the welfare of U.S. merchant seamen through cooperation with the United Seamen's Service, and for other purposes;

H.R. 17809. An act to provide an equitable system for fixing and adjusting the rates of pay for prevailing rate employees of the Government and for other purposes;

H.J. Res. 1416. Joint resolution fixing the time of assembly of the 92d Congress; and

H.J. Res. 1417. Joint resolution extending the dates for transmission to the Congress of the President's Economic Report and of the report of the Joint Economic Committee.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were severally referred to the Committee on Rules and Administration:

H. Con. Res. 771. Concurrent resolution for the printing of environmental report;

H. Con. Res. 785. Concurrent resolution authorizing the printing as a House document the book entitled "Our American Government and How It works: 1,001 Questions and Answers"; and

H. Con. Res. 790. Concurrent resolution to provide for the printing of 5,000 additional copies of parts I and II of the hearings before the Special Subcommittee on Education of the Committee on Education and Labor entitled "Discrimination Against Women."

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

The PRESIDING OFFICER. The question now recurs on the conference report on the appropriations bill for the Department of Transportation.

Mr. NELSON. Mr. President, what is the question?

The PRESIDING OFFICER. The question is on agreeing to the conference report on the appropriations bill for the Department of Transportation.

Mr. NELSON. Mr. President, I am not prepared to vote yet.

ESTABLISHMENT OF A NATIONAL MINING AND MINERALS POLICY

Mr. ALLOTT. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 719.

The PRESIDING OFFICER (Mr. SPONG) laid before the Senate the amendments of the House of Representatives to the bill (S. 719) to establish a national mining and minerals policy, which were, on page 1, line 4, strike out "1969." and insert "1970".

On page 1, strike out all after line 4 over through and including "Act." in line 11, page 2, and insert:

SEC. 2. The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

For the purpose of this Act "minerals" shall include all minerals and mineral fuels including oil, gas, coal, oil shale and uranium.

It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this Act. For this purpose the Secretary of the Interior shall include in his annual report to the Congress a report on the state of the domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, together with such recommendations for legislative programs as may be necessary to implement the policy of this Act.

Mr. ALLOTT. Mr. President, I will shortly ask that the Senate adopt the amendments of the other body to my bill S. 719, but first, I believe a few comments are in order.

There has been some misunderstanding with regard to my concerns over the inclusion of the energy minerals within the scope of the National Mining and Minerals Policy. The House Report on this measure contained this comment:

> One of the chief concerns appeared to be that the inclusion of these minerals in S. 719 would detract from the urgency of establishing a national energy policy. The Committee is fully aware of the need and urgency for an energy policy and it is also aware of the numerous studies now underway on the energy situation as well as the legislation now pending in both the House and the Senate to set up a commission to study this problem.

While this may be the concern of some, it is not my concern. Quite the contrary, the inclusion of the energy minerals would be a very positive step toward the establishment of an energy policy.

Without commenting upon the merits of a national energy policy, the matter of including the energy minerals concerned me because as the House Report points out:

> . . . The fuel minerals make about 65 percent of the total value of all domestically produced minerals.

To put it another way, two-thirds of our minerals industry is involved in the production of energy.

My concern is that the energy minerals, and especially in light of the present energy crisis, will dominate considerations in effecting the policy. It is not that I am unaware of the energy crisis—the whole Government is aware of it. There are a number of committees, commissions, and other groups, both governmental and non-governmental studying the problem, and it appears that there will be more. There seems to be little doubt that the energy problem will receive the attention it deserves. My concern is that the other minerals, so essential to our standard of living and national security, will not receive the attention and consideration they require and deserve.

I expressed this concern during the confirmation hearings on Dr. Osborn, the new Director of the Bureau of Mines. Dr. Osborn was asked if he would administer the programs of the Bureau of Mines and propose new programs under the authority of S. 719 which would place equal emphasis upon the general mineral industry as on the energy mineral industry. Dr. Osborn indicated that he thought it could be done, and affirmed his belief that it should be done. He concurred in my concern that the energy mineral extraction industry might tend to overshadow the "hard-rock" or general mineral industry, and confirmed his belief that the emphasis on each should be equal or comparable.

The question then is, how best to achieve this equality or comparability of emphasis?

There is little doubt in my mind that the problems of oil and gas are quite different, in general, from the problems

associated with general mining. As I pointed out in the Senate hearings on this measure:

In my view, there are many common factors to the energy picture that are peculiar to energy and which simply do not apply to minerals in general; and therefore, the problems of energy and of the energy mix should be treated separately.

As an example of this, both the electric industry, which is the largest user of coal and in which uranium is becoming a larger factor, and the natural gas industry, are regulated by the Federal Power Commission, or by State regulatory agencies. Such questions as 'service area integrity', public versus private power, rate structuring et cetera, common to the energy field are simply not present in the general mineral field.

Oil and gas have been treated separately in the past, and there is an Office of Oil and Gas already established within the Department of the Interior. It would be my hope that this office would not only continue, but would be expanded so that it might more fully implement the National Mining and Minerals Policy as it relates to oil and gas.

With respect to uranium and other nuclear fuels, this has already been separated, and the program is largely under the jurisdiction of the Atomic Energy Commission. Parenthethically, it was largely because of this special authority within the Atomic Energy Commission that I originally intended to exclude the nuclear fuels from the scope of the minerals policy.

With respect to coal, this is a mineral which I believe is somewhat in the grey area. While it is a fuel, its importance as a feed stock for various synthetic and chemical materials is growing. In light of the tremendous responsibilities of the Bureau of Mines with respect to coal and coal mining, its retention within the Bureau was always contemplated by me.

The remainder of the minerals would, therefore, remain under the jurisdiction of the Bureau of Mines. This would include oil shale. Inasmuch as oil shale has not yet become a viable industry, there will be time to determine where it should fit in the framework I have outlined when it does emerge as a "going-concern."

Further, the oil shale research program has been under the jurisdiction of the Bureau of Mines for many years, and there is no present reason for considering a change.

There is another office under the Assistant Secretary of the Interior for Mineral Resources which would have a significant role in carrying out the purposes of S. 719, and that is the Office of Minerals and Solids Fuels. While its orientation is primarily directed toward emergency planning, it logically has responsibilities with respect to predicting shortages and recommending actions to prevent them.

Mr. President, I ask unanimous consent that the description of the Office of Oil and Gas, the Office of Minerals and Solid Fuels, and the Bureau of Mines, as they are contained in the "United States Government Organization Manual—1970 to 1971," be printed in the RECORD at this point.

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

OFFICE OF MINERALS AND SOLID FUELS

The Office of Minerals and Solid Fuels, successor to the Office of Minerals Mobilization, was established by the Secretary of the Interior on November 2, 1962, to provide more effective departmental attention to the problems of the minerals and solid fuels industries.

Under the supervision of the Assistant Secretary—Mineral Resources, it provides advice and staff assistance to the Secretariat and initiates specialized studies and evaluations which serve as the basis for departmental policy decisions affecting metals, minerals, and solid fuels.

The Office is responsible for planning and programing to provide for a supply of metals, minerals, and solid fuels adequate for essential civilian and military requirements under partial and full mobilization. It also assists the States in planning for the emergency management of solid fuels in coordination with efforts at the national level.

Appropriate action programs are also recommended to overcome potential materials deficiencies which are suggested as a result of supply availability and demand studies in the minerals area.

Advice and assistance are provided by the Office in the establishment and review of stockpile policies, including the development of stockpile objectives for individual strategic and critical materials, the acquisition of metals and minerals to meet stockpile objectives, and the organization of programs to dispose of surplus Government inventories of metals and minerals.

The Office maintains the Emergency Minerals Administration and the Emergency Solid Fuels Administration on a standby basis to direct the Nation's minerals and solid fuels industries in a defense emergency. The Office compiles data concerning production, manpower, capacity, and other information on essential minerals and solids fuels facilities for use in asessing damage after attack and to provide for continuity of industrial production during an emergency. It develops standby orders, regulations and plans, and trains executive reservists from industry to perform specified duties during an emergency period.

OFFICE OF OIL AND GAS

The Office of Oil and Gas was established May 6, 1946 by the Secretary of the Interior in response to Presidential Letter of May 3, 1946. Additional responsibilities are assigned under authority of the Defense Production Act and the Voluntary Agreement Relating to Foreign Petroleum Supply.

The Office of Oil and Gas serves as a focal point for leadership and information on petroleum matters in the Federal Government, and the principal channel of communication between the Federal Government, the petroleum industry, and the oil producing States. It also maintains the capability to respond effectively to emergencies affecting the Nation's supply of oil and gas.

This Office is under the Assistant Secretary—Mineral Resources and consists of a headquarters staff covering five principal areas: programming, emergency preparedness, technical studies, resources, and industry advisory committees. Five field representatives are stationed in Olney, Md., Denton, Tex., Battle Creek, Mich., Denver, Colo., and Santa Rosa, Calif.

The Office of Oil and Gas maintains the Emergency Petroleum and Gas Administration (EPGA) in standby readiness to mobilize and direct the Nation's petroleum and gas industries in the event of a national emergency. It develops national petroleum readiness plans and assists the States and industry in their petroleum emergency plans. It coordinates the measures taken by government and the petroleum industry to mitigate the effects of interruptions to foreign oil supplies which threaten the national security of the United States. It conducts studies, domestic and worldwide, to maintain data on the adequacy of oil and gas to meet demands, to define deficient areas, and to develop ways to alleviate actual or potential deficiencies. It provides leadership to the Federal Interagency Petroleum Statistics Program, provides advice and information on petroleum matters, and conducts an active interchange of information with the oil and gas industries through the National Petroleum Council and other advisory groups. It maintains liaison with the Interstate Oil Compact Commission and the conservation agencies of the oil producing States, and participates in a number of international groups having responsibilities for oil and gas.

BUREAU OF MINES

[For regulations codified under this heading, see Code of Federal Regulations, Title 30, Chapter I; Title 32, Chapter XIII]

CREATION AND AUTHORITY.—The Bureau of Mines was established July 1, 1910, in the Department of the Interior by the Organic Act of May 16, 1910 (36 Stat. 369; 30 U.S.C. secs. 1, 3, 5–7), as amended. The 1910 act, as amended, has been supplemented by several statutes, including those that authorize the production and sale of helium, the conduct of research on environmental problems associated with mineral wastes, and most recently the Federal Metal and Nonmetallic Mine Safety Act of 1966 (80 Stat. 772; 30 U.S.C. 721 note), and the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742; 30 U.S.C. 801 note), that deals with the inspection of domestic mines and enforcement of health and safety standards.

OBJECTIVES.—The Bureau of Mines conducts research and administers regulatory programs necessary for performance of the governmental function to stimulate the private sector toward the production of an appropriate and substantial share of the national mineral and fuel needs in a manner that best protects the public interest. Specifically, concern is directed toward the satisfaction of current and emerging needs; the real cost of such achievements; the assessment of related social-economic factors; minimization of occupational hazards to workers; reduction of wastes; and insurance that mineral raw materials are supplied and mineral-based products are used and disposed of without objectionable social and environmental cost. To accomplish these objectives, the Bureau performs research, provides information to the public, conducts inquiries, and enforces laws pertinent to the extraction, processing, use, reuse, and disposal of minerals and mineral fuels.

ORGANIZATION.—The Bureau is composed of a headquarters in Washington, D.C. and a field organization. The headquarters is divided into three functional categories: (1) Management staff, planning, administrative, and information functions which support all of the Bureau activities; (2) a Deputy Director, Health and Safety, responsible for compliance and enforcement obligations and powers; and (3) a Deputy Director, Mineral Resources and Environmental Development, responsible for research, resource, and environmental activities. Field activities include: (1) two administrative field offices; (2) in the health and safety function: coal and metal/nonmetal mine safety district and subdistrict offices, technical support centers, and field health groups; and (3) in the mineral resources and environmental development function: mining, metallurgy, and energy research centers and laboratories, for operation centers, and state liaison offices.

MINERAL RESOURCES AND ENVIRONMENTAL DEVELOPMENT.—Functions include surveillance and evaluations of the industrial and commercial outlets for minerals and fuel deposits; studies to determine the relationship of mineral supply, demand and technology to the national and world economy; studies and projects concerning the relationship of the mineral industries to environmental problems: collection, evaluation, and publication of mineral industry statistics; and conducting engineering studies regarding effective mining practices. Also included are research programs concerning extraction, processing, use, and disposal of minerals, mineral fuels, and helium production.

HEALTH AND SAFETY.—Programs are conducted to control health hazards and to reduce fatalities and injuries in the mineral industries. This is accomplished through mine inspections, field investigations, research and development, approval and testing of mining equipment and protective devices, analysis of accident statistics, safety education, training and motivation, health studies, and devising and enforcing appropriate health and safety standards.

Mr. ALLOTT. Mr. President, with this organizational structure in mind, I believe that an appropriate division of responsibility can be made whereby equal or comparable emphasis can be placed upon the fulfillment of the responsibilities and objectives as set forth in S. 719 as they relate to the nonenergy minerals and as they relate to the energy minerals.

It will depend in large measure upon the willingness of the appropriate administrators to achieve this balance. Indications which I have received so far are favorable towards administrative assignment of functions to achieve this balance. This is encouraging to me, because the importance of achieving such a balance cannot be over emphasized. In order to achieve the objectives of the sponsors of the measure, this comparable emphasis must be achieved.

With respect to the other amendments adopted by the House, I have no objections to them. They are amendments which more specifically state the underlying intent of the measure as my colleagues and I intended. Therefore, I am happy to accept those amendments, and feel that they add clarification to the bill.

Mr. President, I move that the Senate adopt the amendments of the House on S. 719, and thereby clear it for the President's signature.

The motion was agreed to.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17755) making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1971, and for other purposes.

THE SST GROUNDED

Mr. YOUNG of Ohio. Mr. President, the Senate has voted 52 to 41 to save American taxpayers $290 million. This in addition to millions already down the drain toward development of the supersonic transport plane which, at that, would carry but two-thirds the passenger load of the 747. The proposed SST plane would get the jet set to Paris at a speed faster than sound—1,400 miles per hour. The Senate majority voted that environment protection should be much more important. Also, ending unnecessary Government spending for unneeded frills and thrills would be a step toward ending inflation. Why not employ aircraft industry's resources in socially beneficial projects? The jet set should be left alone with their own follies in France, Greece, and elsewhere. Two hundred ninety million could far better be spent to end hunger in America and to beautify our cities.

Supporters of the bill claim that many now at work on this project would be denied jobs if the appropriation fails. This sort of argument has been advanced on behalf of every boondoggle since the construction of the great pyramids along the Nile. Actually, the administration has not chosen to emphasize this point to the fullest extent possible. Scientists have pointed out that the damage to windows and walls from the sonic boom would result in an estimated 500,000 claims per day. Think of the number of jobs that would be created by processing these claims and repairing the structural damages to private homes.

Mr. President, men employed in the military-industrial complex making planes and armaments that would need jobs in the event that this $290 million project is canceled could have jobs working in urban renewal projects, urban rapid transit construction or antipollution projects, ending pollution in our lakes and rivers and building homes desperately needed by families. Although a temporary dislocation of the work force might result, it would be just that, a temporary one.

If overland supersonic flight is permitted, 500 million persons in America, Europe and Asia may be jolted every hour, day and night, by sonic booms from hit-and-run SST's. People working, relaxing, and sleeping will be banged repeatedly without apology. Aviation designed to be man's servant would instead become his scourge. Why should the public, 95 percent of whose members would never fly in an SST, be forced to provide billions of dollars for an inefficient, unnecessary plane that could destroy peace and quiet throughout much of the civilized world? Why concern ourselves about the jet set?

THE SST AS AN INVESTMENT

Mr. President, according to the Department of Transportation, the Federal Government's investment in the SST through the completion of phase III in 1973 will be $1.3 billion out of the total $1.5 billion program cost. If 300 SST's are sold, it is said, the Federal Government will get its $1.3 billion back. If 500 planes are sold, the Government will get back another $1 billion.

The Government's return on investment in the 500-plane case works out to 4.3 percent, according to FAA figures—not very impressive, especially when you compare it with the estimated 15-percent return on its investment that Boeing will get, or the 11.2-percent General Electric return.

But if there were no more to the SST program than this—if the Federal Government's investment was clearly going to be limited to $1.3 billion, and if the 4-percent return was solid and reliable—the controversy surrounding the program might at least be more subdued.

That, however, is not the case. There is a very strong likelihood, despite soothing assurances to the contrary from DOT, that the Government is going to have to shell out a lot more than $1.3 billion for this plane. And the Government's 4-percent return on investment rests on many questionable assumptions.

HOW MUCH WILL THE GOVERNMENT HAVE TO PAY?

How much the Government could end up paying for the SST depends to some extent on whether there are cost overruns in the program. Given past experience in advanced technology programs such as this, it is probably safe to assume there will be. I understand that the Transportation Department is already warning that delays and fund cuts over the past few months are going to lead to overruns.

Putting this to one side, however, the more important question seems to be: Who is going to pay for phases IV—production development and certification—and V—initial production?

Transportation Under Secretary James M. Beggs said in a news conference on March 31, 1970:

> Beyond the prototype phase . . . we expect that the program will move to completely private financing.

It is nice that Mr. Beggs expects this, but that is not the same thing as saying the SST will not go forward after phase III unless full private financing is forthcoming. Significantly, when DOT puts their expectations in more formal language, it comes out this way:

> It has been the Government's intent that the private sector finance the follow-on phase of the program, Phase IV, Aircraft Certification and Initial Production, *to the maximum extent possible.*

The Department's caution on this point is probably welladvised, since there are important indications that Government spending on the SST will have to continue beyond phase III. A financial planning study done for FAA in 1967 by Booz, Allen & Hamilton, for example, concluded that Boeing probably could not meet the financing demands beyond phase III, and that it would have to rely on the Government to act as a guarantor of the funds required, or to actually provide the additional funds needed. The Transportation Department sought to dismiss this study in the congressional hearings last year, arguing that the risk of Government involvement is much less now that the overlap of phases III and IV has been eliminated, since private financers will now have a chance to evaluate the results of the prototype tests before investing in production. This may be true, but if eliminating the overlap is the only safeguard we have against Federal funding beyond phase III, there is little cause for com-

fort. An indication of how tentative this decision to eliminate the overlap is can be obtained from the prepared statement of B. J. Vierling, acting director of the SST program, in the Senate hearings last November:

Should subsequent pressures develop to deliver production aircraft earlier than is provided in our new schedule, the option to overlap can still be exercised through approximately September 1970 for delivery of production aircraft in early 1976. (Hearings, p. 602)

In other words, we may be back to costly overlapping again.

There is more grist for the skeptic's mill in the January 5, 1970 issue of Aviation Week & Space Technology, which is devoted entirely to the SST. In an article entitled "Financing Poses Unprecedented Challenge," there is this assessment of the likelihood of Government financing beyond phase III:

Given the climate of 1970—severe credit stringency, inflating costs, declining airline earnings—some form of government participation is more than a possibility.

The article goes on to say:

It is no exaggeration to say that Boeing must have a profitable, long-run 747 program to carry its share of the supersonic transport financing. Company growth at Boeing could increase its ability to finance the SST, the article notes, but the cash requirement of 4–5 times that of the 747 program would require growth of a remarkable degree.

An earlier report appearing in the New York Times on October 17, 1969, supports the Aviation Week analysis. In the Times story, Holden W. Withington, the Boeing vice president in charge of the SST program, is quoted as saying that "it's going to be a real tough job" to raise the capital needed to move from the Government-aided development and test flight phases of the project to actual production of the plane for airlines.

Under current forecasts, Withington said Boeing would have to raise "about $2 billion to go into production, and that is assuming that we get 50 percent progress payments from the airlines in the 1973–74 period. I am not so sure we will be able to do this."

Aviation Week agrees on this last point, noting that "airlines are telling manufacturers that they are not going to make 50 percent progress payments again, ever."

We may conclude, then, that it would be a rash man indeed who would give assurance now that the Federal Government can have its SST with an investment of $1.3 billion and no more.

HOW MUCH WILL THE GOVERNMENT GET BACK?

The Department of Transportation says the Government will get a 4-percent return on its $1.3 billion investment. This is based on the so-called FAA base case market of 500 airplanes by 1990 with sonic boom restrictions and a sales price of $37 million—in 1967 dollars.

Calculations of this sort are based on a great many unknowns, of course, and to come to any kind of judgment you simply have to make assumptions about those unknowns. It is fair to ask, however, how realistic some of the more important assumptions are.

Take, for example, the $37 million sale price of the SST. This may in fact prove to be the final, inflation-adjusted price of the SST, but given our past experience with cost overruns some skepticism is in order. Especially is this so in light of the statement by Boeing Vice President H. W. Withington—in the Times article quoted earlier—that the price of the SST could climb to between $50 and $60 million. It is not clear from the article how much of this increase would be due to inflation.

If the final price of the SST does go up to something on the order of $50 million, the rosy forecasts of a 500-plane market begin to fade away.

In a study prepared in April 1969 for the FAA by Charles River Associates, for example, upping the SST price to $50 million reduces their "base case" SST market to 435.

In another study prepared for FAA around the same time by the Boeing Co., the market estimate approached 500 only on the assumption of a $37 million price. When the price went up just slightly, from $37 million to $40 million, the market estimate declined to the low 400's.

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

Mr. YOUNG of Ohio. I would prefer not to yield. However, I yield for a question without losing my right to the floor.

Mr. LONG. Mr. President, do I understand the Senator to say that these planes will cost from $37 to $40 million each?

Mr. YOUNG of Ohio. I do not know what the Senator understood about that. However, I said that in another study prepared for the FAA around the same time by the Boeing Co., the market estimate approached 500 only on the assumption of a $37 million price.

Mr. LONG. Mr. President, that would cause me to wonder if that would mean that the rates to an individual would be more than those charged on the general airplanes.

The thought occurs to me that if they are going to charge $37 to $40 million an airplane, one could not buy a ticket on the plane as cheaply then as he could on the planes flying over the ocean today.

I hope that the distinguished Senator might advise me on that.

Mr. YOUNG of Ohio. Mr. President, I could not advise the distinguished Senator from Louisiana on that. However, it appears to me that his assumption undoubtedly has basis in fact and that it would cost more.

Another crucial assumption in the various SST market estimates involves a judgment on how much people think their time is worth. If they think it is worth a lot, they will be willing to spend something extra to ride on an SST and get where they are going faster. If they do not, they will not, and Boeing will have some trouble selling SST's.

The Department of Transportation has decided that people value their time at 1½ times their hourly earnings. Others disagree. The Institute for Defense Analysis did a study of SST demand for the FAA in December of 1966, and they concluded that people valued their time at approximately their earnings rate. Other studies have indicated that travelers value their time at only 40 percent of their earnings rate, and still others say time is valued at twice the earnings rate.

The point is that no one really knows. But what you assume on this point has a striking impact on SST market predictions.

In the 1969 Boeing economic study mentioned above, for example, the market prediction is only around 300 if time is valued at the same as a traveler's earnings. If time is valued at 1½ times earnings, the market approaches 500, and if it is valued at two times earnings, the market prediction goes up to around 600.

The same uncertainty is found in the Charles River Associates study, with a predicted market ranging from 473 for the time equals earnings case, to 870 for the time equals two times earnings case.

None of this of course proves that the Federal Government is not going to get its modest 4-percent return on the money it spends on the SST. What it does show is that the 500-plane market on which this return depends is nowhere near as certain as the Transportation Department would have us believe.

IS IT WORTH IT?

Even the most fervent defenders of the SST generally will acknowledge that the program is pretty difficult to justify if you look only at the Government's predicted 4-percent return on investment. After all, the Government could do a good deal better than that simply by opening a rather large savings account, or by retiring its 8-percent Treasury bills. But, the defenders say, this is not the whole story—and they proceed to trot out charts and graphs showing all the jobs the SST program is going to create, the favorable impact it will have on our balance of payments, and so forth.

But now a new emphasis is beginning to creep into justifications for the SST. The SST, it turns out, is not really meant to benefit the Nation at large. Rather, it is now being justified primarily as a prop for the aviation industry, ailing because of the decline in military and space business, and perhaps also as a "prestige" item of sorts. It has become one part pyramid and two parts WPA project.

President Nixon hinted at this new emphasis when he announced a go-ahead on the SST last September. He said:

I want the United States to continue to lead the world in air transport.

Then, in a Transportation Department press conference on March 31, things got a little more explicit. Transportation Secretary John Volpe began by declaring:

The aviation industry is essential to our Nation.

If the SST project is not pressed to completion, he went on—

About six or seven years down the road . . you'd have a situation where you would have, not just thousands, but tens of thousands of employees that would be laid off and the aviation industry would just go to pot.

He added:

President Nixon feels that same way.

FAA Administrator John Shaffer, you will recall, emphasized much the same point before this subcommittee earlier this month. His prepared statement read:

I am quite concerned about the financial condition of the aircraft companies today. Their production lines have been slowing since last fall and very few new programs are appearing on the horizon. The SST, the B-1, possibly the STOL, the F-14 and 15 and a few others are not enough business to keep our aircraft industry at high capacity.

Perhaps there is nothing wrong with providing this kind of subsidy to the aircraft industry. After all, the Federal Government provides prodigious subsidies to farmers, to the merchant marine, to the oil industry, and to a host of lesser claimants, and no one seems to mind all that much. Still, I am not sure that reliance on Government subsidy is the best way to assure a healthy aircraft industry. Let me read to you, in this connection, a few excerpts from testimony given by Gen. Elwood R. Quesada before the President's SST Ad Hoc Review Committee last spring. General Quesada, you will recall, headed the Federal Aviation Administration from 1958–61, at the time the SST program was begun, and is now a director of American Airlines. He said:

It was never anticipated that the Federal Government would be the major sponsor of a supersonic transport [General Quesada testified]. . . . I have very serious reservations about the Federal Government assuming the major burden of developing a commercial airplane. Serious reservations. The Federal Government is not motivated in such a manner that would cause them historically speaking to produce the most efficient and most economic transport.

I gag, if I may use my own term, at the Federal Government by its positive action replacing economic demand. I feel that a supersonic transport or any other commercial device should be the product of economic demand. Our free enterprise system, at least in my opinion, has been a very successful system and I would hate to see it replaced by something else.

I do not know why we should mimic or reproduce what England, France and Italy have done who did have a commanding position in the world market. They have failed. England, their aircraft industry is a miserable failure compared to ours. So I do not know why we should do what England has done. And certainly it is true in France. The French aircraft industry is 100 percent supported, or nearly 100 percent supported by the federal government, and I think it is fair to say that it is not nearly as good as ours. And I think that if we adopt the same philosophical approach as France, England and Italy I think we might replace them.

I don't think that we should give up and adopt the system of Europe, which I think has proved a failure, and substitute it for our system which has been proved a success.

To answer the question of whether the Government's investment in the SST is worth it, you have to decide whether it is a good idea for the Government to be providing this kind of a subsidy for an industry; whether, in short, the benefits outweigh the costs. It is in part a question of philosophy. I come out on the side of free enterprise.

Mr. President, I would also like to continue my remarks about the economics of the SST with a discussion of the productivity of the airplane itself. The claim has been made that the SST will prove more productive than the present generation of jetliners, such as the 747, and so supplant them. Proponents of the SST have claimed that it will represent a significant advance in transportation efficiency.

A study recently completed indicates that the SST will actually be less productive than the 747. Productivity is a measure of passenger trips per dollar—seat miles per dollar—carried out in a given time period.

The new study, done by Mr. Russell A. Brown, senior research engineer with the Idaho Nuclear Corp., Idaho Falls, Idaho, is a parametric study of the transportation efficiency of the SST as compared with the 747. It is a report of the SST study committee of the Idaho Environmental Council. The report also includes a corroborative study done by the Research Analysis Corp. for the Library of Congress' Legislative Reference Service.

A letter accompanying the report also describes the misstatements that William Magruder, Director of the SST program, Department of Transportation, made before the Senate Appropriations Committee. Mr. Magruder has claimed that the SST was "twice as productive as the largest jumbo jet."

The conclusion of the report points out that the SST is as much as 15 to 35 percent less productive than the 747 in probable operating range. This report corroborates the point made by an aviation economist, Dr. George Eads of Princeton University in Appropriations Committee hearings in August. He said the SST would hurt both the airlines and the aircraft industry, because success for both depends on building quality aircraft.

Mr. President, I would also like to report that many newspapers in the State of Ohio also oppose this massive boondoggle. I would like to read some excerpts from some of their editorials. The Akron Beacon Journal comments:

PROGRESS TOWARD WHAT?

Even if one had a mind to do so, there seems to be no way under the sun to stop progress. Rational men ought to ask themselves from time to time, however, progress toward what?

The supersonic transport (SST), into which the government has already sunk more than $500 million and which will cost taxpayers an estimated $1.2 billion in subsidies before Boeing's prototypes fly in 1972, is a good case in point.

All the publicly-expressed concern about holding down federal spending, and the complaints about noise the SST will make in flight, seem to go unheeded on the basis that the SST represents progress in aviation that can't or won't be held back.

If America doesn't move ahead, the argument goes, then our competitors—whether economic or political—will capture the air travel market and relegate us to second-class status. Airlines around the world will buy the Russian or English-French supersonic transports, which have already been tested in the air. By 1990, says General Electric which has the contract to build engines for the SST, the U.S. could lose up to $17 billion in sales of some 500 planes which will then be carrying passengers.

But will the market for supersonic transports be anywhere near this large by 1990? It seems doubtful. In the first place, consider the noise, not only sonic booms but noise on the ground.

A little over a year ago, Maj. Gen. J. C. Maxwell, on loan from the Air Force to the Federal Aviation Agency, commented that "people living around and below (the SST's) flight path had to accept it as part of the everyday environment."

Subsequently, assurances were made that the SST's would be limited to flights over the oceans. Even in England, where the Concorde is viewed as a matter of pride, Prince Charles said the other day that the plane's worth would be questionable if it damaged ancient churches.

Russell E. Train, chairman of the President's Council on Environmental Quality, has recently testified that the SST would be "three to four times louder" than present legal limits on aircraft engine noise. This means that even when just landing and taking off, the SST is bound to be more than a nuisance.

This, in turn, raises the matter of ground accommodations and terminals, and who is going to have to pay for the vast expansion of airports. The public, of course, not only in taxes but in increased fares. For what? So a few may fly across the oceans in two hours less time than is now required.

Airline executives are already agreeing that SST operations would probably need to be subsidized by fares of other operations.

It is not likely, either, that supersonic passengers will fly in any super-style or super-comfort, at least in the early stages. The cabins will certainly be less spacious and less comfortable than those in the current jumbo jets, which themselves are achieving less than total acceptance.

Finally, with all the worries about the environment today, there is one more argument against the SST. Four hundred of them flying, says Train, would inject about 150,000 tons of water vapor into the stratosphere every day, enough to increase cloud cover, reflect away some of the sun's heat and possibly cause "serious consequences on climate."

Nobody, to be sure, wants to stop progress, but it would be nice to be able to enjoy it.

Then on May 26, 1970, the Springfield, Ohio, Sun, a great newspaper in my State, under the caption, "An Unneeded Plane," stated about the SST:

The proposed aircraft that would create runway noise equivalent to that of 50 jumbo jets is having financing troubles. That mighty agent of the sonic boom, the Boeing SST, has already cost the government $640 million, and an additional $290 million will be needed for the coming fiscal year. The entire project is estimated to cost nearly $4 billion, and already there is a cost overrun of $75 million.

Resistance is now beginning to stir in Congress. Nevertheless in this time of tight housing, cutbacks in education funds and medical research, deteriorating cities, and rising costs, the Nixon Administration seems firmly committed to see the SST through to a questionable existence.

May I say that the Springfield, Ohio, Sun is a Republican newspaper, and yet it editorially stated this criticism:

Do we really need such an expensive aircraft whose only advantage will be the reduction of flying time by one-third? In exchange we will get greater noise pollution, increased air pollution, less air safety, and gargantuan costs.

Builders say flights of the SST will be only over water, thereby eliminating the shock waves that cause so much damage. But what happens if the plane should prove to be unprofitable over water alone? Look out, people!

All around, it's a bad investment of money so urgently needed elsewhere. And even the airlines don't want the SST—not for a long time, anyway.

That is a fine editorial published in the Springfield, Ohio, Sun, under the caption, "An Unneeded Plane."

And the Plain Dealer of my home city of Cleveland, a nationally known newspaper with a Sunday circulation of well over 500,000 and a daily circulation of well over 400,000, under the caption, "Harmful Shock Waves," stated that—

The supersonic transport (SST) plane is a "big mistake" which could create serious physical and psychological hazards to millions of persons, an expert on noise pollution said here yesterday.

Dr. Walter Carlein, mayor of Baden-Baden, West Germany, and a member of the national board of directors for the West German noise abatement council, told The Plain Dealer:

"It would be best for mankind if plans for the supersonic transports were halted now."

Too much money has been invested by the United States and other nations for them to even consider a halt, he said.

"So the best we can do is to make sure that such planes are restricted to flying over the oceans," he added.

U.S. transportation officials have promised SSTs would not be allowed to fly supersonically over U.S. territory. Conservationists fear the promise will be broken when the planes are in operation.

Dr. Carlein was here to speak to the two-day Michigan-Ohio Pollution Conference. It is cosponsored by Cleveland State University.

Dr. Carlein said a giant passenger plane flying at supersonic speeds across a continent would create shock waves on the ground 40 to 50 miles wide the length of the continent.

These could cause heart attacks and hearing impairment in humans and extensive structural damage to buildings, he said.

The United States has invested some $640 million in its SST. The administration seeks $290 million to continue the program for fiscal 1971.

England and France are jointly building and test flying an SST. So is the Soviet Union.

U.S. officials contend the SST should be built to preserve this country's aviation industry from foreign competition.

Seven northeast Ohio conservation groups, representing several thousand persons, this week urged President in a letter to withdraw the $290 million request.

"National priorities demand these funds be diverted to environmental medical research and to solving pollution problems, rather than creating them," the letter stated.

In the Cleveland Press, one of the great Scripps-Howard newspapers of our Nation, with a circulation of approximately 400,000 each day, there is headlined a news story:

SEVEN GROUPS HERE ASK NIXON TO DITCH THE SST

Seven Cleveland area conservation organizations have appealed to President Nixon to withdraw his request for $290 million for development of a supersonic transport (SST).

They asked that the funds be diverted to solving present pollution problems, instead of creating new ones.

The President's chief environmental adviser, Russell Train, who today testified on the SST before a joint committee of Congress said yesterday in Cleveland, "As a generality, that's a good rule."

Here to report to the American Mining Congress on the new Council on Environmental Quality, which he heads, Train would not comment on the testimony he is to give today. He said it hadn't been cleared.

He did comment on other matters:

Dredging disposal—Open lake disposal must be continued where diking is not now available "to prevent shutdown of the economy" by closing ports.

Train said he has heard no negative reaction to the President's proposal that local communities share in the cost of diking. "They should share the cost because these are local problems to a great extent and local communities benefit."

Industrial data: "I'm a firm believer in full public disclosure of all information." Train said in response to a question about the Bureau of the Budget's veto of a proposal to develop a national industrial waste inventory.

President's program: "It's a constructive and realistic program that is reasonable and practical."

Environment: "I don't think it's a fad that will go away. The problems are not imaginary and superficial. They are very real."

The Cleveland area organizations that have urged the President to withdraw support for SST development are the Air Conservation Committee, Area Councils Assn., Lake County Citizens for Clean Air, Citizens for Clean Air and Water, Mothers' March on Pollution, Northeastern Ohio Air Conservation Committee and the Task Force on Pollution.

Mr. President, I shall read into the RECORD at this point an attached report, which provides an analysis of the comparative——

Mr. PROXMIRE. Mr. President, before the Senator reads that, will he yield for a question?

Mr. YOUNG of Ohio. Yes; I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. As I understand, the Senator from Ohio has just read a list of conservation organizations that have requested President Nixon to drop his support of the SST; is that correct?

Mr. YOUNG of Ohio. That is correct.

Mr. BYRD of West Virginia. Mr. President, we cannot hear the colloquy on the left. Will the Chair ask Senators engaged in other conversations to be in order?

The PRESIDING OFFICER. The Senator's observation is correct. The Senate will be in order.

Mr. YOUNG of Ohio. The statement made by the distinguished Senator from Wisconsin is absolutely correct. The list of societies and organizations I read are, as far as I know, all conservation societies in my State.

Mr. PROXMIRE. Is it not true that those who support the SST have failed to indicate a single conservation group, or any other group that does not have either a direct interest in the aircraft industry or in the air line industry, or represents a Government agency which is under the direction of the President—that save those groups there is no significant group supporting the SST? I know of none.

Mr. YOUNG of Ohio. The statement made by the Senator from Wisconsin is absolutely true and correct. As far as I know, not one.

Mr. PROXMIRE. I know of a number of public polls, conducted primarily by Members of Congress, which are not scientific, but they all indicate overwhelming opposition to the supersonic transport. Does the Senator from Ohio know of any poll of any kind made of any public group, scientific or unscientific, which indicates public support of the supersonic transport?

Mr. YOUNG of Ohio. In answer to that question, I assert that I know of no such organization, and I am certain that there is none.

Mr. PROXMIRE. A recent poll conducted by Representative HENRY REUSS of Wisconsin of the newly elected, incoming Members of the House of Representatives indicates that the overwhelming majority of those newly elected Representatives—and by overwhelming I mean something like 6 to 1—are opposed to the supersonic transport, whereas the Representatives they defeated are, by and large, in favor of the supersonic transport.

I admit that this is not decisive, but would it not be at least some indication that the people who elected them had this issue in mind, that it was a real issue, and that the people, by their votes, indicated their real opposition to the supersonic transport?

Mr. YOUNG of Ohio. It seems to me that is very significant, indeed, because those men who were campaigning before their constituents, and meeting with people in their districts regularly, and who succeeded in being elected, were in a position to understand and did understand the views of their constituents, or else they would not, in my opinon, have been elected. While we have been here in Washington working, they have been in a position to know better than anyone else the views of the rank and file of the people. I say it is significant indeed that almost every one of them who was successful in the election expressed opposition to the SST.

Mr. PROXMIRE. Has the Senator noticed that the newspapers of this country represent the establishment, as much as there is an establishment in this country; they represent vested interests, often conservative forces, they are not known for opposition to industry. Does it not seem that the overwhelming majority of the newspapers have indicated by their editorials—and I have a large number of editorials which I am prepared to put into the record at a later time—have indicated their strong opposition to the SST? There may be a few newspapers that are for it; I am not aware of more than one or two that are, and I am aware of literally scores that are emphatically against it.

Mr. YOUNG of Ohio. I believe the statement the Senator has made is absolutely true and correct. I know of no newspaper in my State of Ohio that has urged otherwise. I read the editorials from the leading newspapers, and I know of no newspaper in my State that has advocated to the contrary.

Mr. PROXMIRE. Does it not seem to follow from this colloquy that virtually all of those groups that have looked into the SST—and we did not mention the scientists, as well as the environmentalists—and certainly the general public, to the extent that they have had any opportunity to express their position, either in elections or by responding to inquiries by Members of Congress—that the public by and large is against the SST; and does it not seem logical that they should be, inasmuch as their taxes will pay for the enormous amount we are ap-

propriating, and they, to the extent that pollution develops from the SST, would have to suffer the adverse consequences of noise, possible increased radiation, and some of the other hazards which environmentalists and scientists have warned us might be the consequences of a very substantial fleet of supersonic transports?

Mr. YOUNG of Ohio. What the Senator has said is absolutely true; and it seems to me that we must give heed to the will and the wishes of the people, who have expressed their opposition so clearly to the SST, because they are the ones who will have to bear the burden of paying the tremendous cost of this boondoggle.

We should stop, look, and listen, and pay heed to their views and their wishes on this matter, because they are knowledgeable on this subject, and the newspapers that they read regularly have echoed their views in their editorials, some of which I have just read into the record.

Mr. PROXMIRE. Is it not true that this year there was one vote, and only one vote, on the merits of the supersonic transport in the U.S. Senate—that is, exclusively on that issue?

Mr. YOUNG of Ohio. I agree with the Senator.

Mr. PROXMIRE. Is it not also true that on that one vote the Senate voted 52 to 41 against the SST? And is it not further true that in the House of Representatives, the closest they could come to a vote on the SST was a vote, in the first place, to instruct the conferees in advance of the conference—which was obviously resisted by many Members of the House of Representatives, some of whom might not have been in favor of the SST, but felt that it would be insulting to the members of the conference to be instructed—and, second, that their only other vote on the supersonic transport was on their chance to instruct the conferees after the conference report had come back to the House, at which time the Members of the House of Representatives as well as the Members of the Senate were anxious to get home, anxious not to delay it, and if they had returned the conference report to the conferees, many of them would have felt that it would have prevented them from getting on to other business or from adjourning and ending the session.

Under these circumstances, will the Senator from Ohio agree that that vote could not be considered a fair and clear vote up and down on the supersonic transport, and that the fact that it was as close as it was—as I recall, it was 205 to 185 in favor of the SST—indicates that there may well be even now a majority of the Members of the House who, if they had a chance to vote up and down on the SST, would vote "no"?

Mr. YOUNG of Ohio. What the Senator has said regarding the action of the other body is, according to my understanding, precisely correct. They are no doubt more fully informed now than they were then, and it was not a direct vote. But in the Senate, where this matter has been carefully studied and debated, a clear-cut decision was made, by a vote of 52 to 41. Only 41 of 100 Senators supported the SST in the vote we had here. I think that if the vote were repeated today, it would be fewer.

Mr. PROXMIRE. So the only vote that has been held on the SST directly this year was adverse by a decisive margin.

Mr. YOUNG of Ohio. That is absolutely true. The only up and down vote, as we term it, was cast in the Senate, and it was against the SST.

Mr. PROXMIRE. This conference report contains many things. Many Senators, of course, favor providing an increase in funds for air safety. We have money for the highways. We have money for many other absolutely vital transportation needs.

Would the Senator from Ohio agree with the Senator from Wisconsin that, under these circumstances, to call upon Senators to vote against the conference report, since they have already registered their opposition to the SST, should not be considered a fair vote on the SST, and that for those of us who are strongly opposed, it would mean, in effect, that we would be giving away the whole show if this comes to a vote?

Mr. YOUNG of Ohio. Of course the Senate has clearly expressed its views on the expenditure of $290 million. It seems to me that to come in now with a conference report asking somewhat less than that, $210 million, would be unthinkable. We should not yield to that. That would be the camel's nose under the tent, and then more millions of dollars would follow that.

Mr. PROXMIRE. So what the colloquy of the Senator from Ohio and the Senator from Wisconsin has established is that, to the extent that we can get any record of it, there seems to be strong public opposition to the SST. No evidence has been submitted that there is public support for the supersonic transport.

The Senate, in the only vote conducted in either House of Congress this year, directly on the SST has voted emphatically against it. Yet, because of a parliamentary situation in which the SST has now been encompassed by conferees who were appointed in violation of the Senate rules, in the transportation we are now confronted with a situation that we either vote against providing funds for all our transportation needs or we vote in favor of providing a continuation of the supersonic transport; and if that continues, the ultimate cost to the taxpayer will be $160 million more than it would have been if the SST had gone through with $290 million.

Mr. YOUNG of Ohio. I agree fully with the Senator from Wisconsin. Our constituents have spoken out. Our colleagues in the Senate, by a loud and clear vote—a margin of 52 to 41—have expressed their views. It would seem to me that it would be an abominable and an unthinkable blunder were we to accept this conference report, putting in the $210 million.

Mr. PROXMIRE. I thank the distinguished Senator from Ohio.

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

Mr. YOUNG of Ohio. I yield. I was about to yield the floor.

Mr. MAGNUSON. We have only 3 minutes remaining.

Mr. YOUNG of Ohio. I am glad to yield.

Mr. MAGNUSON. The Senator from Ohio has served in Congress a long time. He and I started out many, many years ago. I am sorry to see him leave.

Mr. YOUNG of Ohio. I thank the Senator.

Mr. MAGNUSON. I was hoping that he could have returned home for Christmas much earlier than this, and if it had not been for certain parliamentary moves here, he would have been.

Mr. YOUNG of Ohio. We all wanted that.

Mr. MAGNUSON. But the Senator knows—he has been on many conferences, as I have—that a conference is appointed literally for what it means. It is to get the two Houses together, not to have one House take an adamant position on one thing as against another, because then we would never have a piece of legislation get to the floor.

The SST happens to be 3 percent of the total of this bill. I get the impression from the Senator from Wisconsin that, therefore, the conferees should be people who are interested in that 3 percent. My idea of a conference over the years—and I think they have been pretty good—was that people are appointed who are familiar with the whole bill, on both sides.

I had some people in conference—the Senator from Rhode Island and I—who disagreed with us completely on rapid transit. But they were for the SST, against somebody on the House side who might have been against it—against rapid transit, too.

This is a big bill. Conferences are not supposed to consist of conferees appointed on one issue that involves 3 percent of the bill. That is part of it.

The Senator from Wisconsin suggests that this is the biggest—well, it has been made pretty big by many people who do not understand it very well. But that is neither here nor there. It has been warped way out of shape. It is one-eighth of 1 percent of the national budget.

When we talk about priorities, the big argument in conference on rapid transit was between $864 million as against $220 million which the House put in. That is pretty important, too, and the Senator from Washington and others fought for that. There was disagreement. That did not mean that someone was for the SST or against it on that. We have more than $700 million for air controllers in there. There was some argument about that. That is wages and everything.

So it is a big bill. I did not think the Senator was suggesting that we were going to appoint conferees on a big Department of Transportation bill solely on the basis of whether they are for or against the SST. We would never get anything done if we did that around here. The Senator from Ohio has been on many conferences; he and I have fought together on many conferences.

Mr. YOUNG of Ohio. Generally together.

Mr. MAGNUSON. On many things. But we had to give a little here and there

in order to get something else done, and the viewpoints are all different.

This was not a conference on the SST. This was a conference on the biggest Department of Transportation bill we have ever had in the history of the Congress.

As for rapid transit in the Senator from Illinois' town, who fights for that? That is part of transportation. That was part of the conference.

Mr. PERCY. Mr. President, will the Senator yield on that point?

Mr. MAGNUSON. I have only 2 minutes.

Mr. PROXMIRE. The Senator from Ohio has the floor.

Mr. MAGNUSON. Yes. Will the Senator yield to me for 1 minute? He will be all through then.

But let us not get the idea that conferees are going to be appointed here solely because somebody is for or against something in one part of the bill. We would not have enough years to have sessions of Congress if we did that. We would never accomplish anything.

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

Mr. YOUNG of Ohio. I yield to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I will be very brief.

Mr. MAGNUSON. The Senator's time is up.

Mr. PROXMIRE. Mr. President, this is typical of the way the SST forces have operated.

Mr. MAGNUSON. The hour is 3 o'clock.

Mr. PROXMIRE. Among other things, the SST forces have contrived and arranged a situation in which tomorrow we have an hour debate, which will be controlled on the one hand by Senator BIBLE and on the other hand by Senator SCOTT. The Senator from Nevada (Mr. BIBLE) is the Senator managing the bill. There is no fairer Senator but he is all out for the SST. The Senator from Pennsylvania (Mr. SCOTT) is the Senator who filed the cloture motion. Where does that leave us? Every step along the way the cards have been stacked against us. They stacked the conferees. It is no secret that the real controversy in the transportation appropriation bill is the SST. Sure, there are differences of opinion on mass transit and differences of opinion on other matters, but the controversial issue that really divides the country and the Senate, on which there was so much debate, is the SST. There is no secret about that. There is no secret that the conferees were appointed who would vote for the SST, which is a direct and express violation of the rules of the Senate.

Mr. YOUNG of Ohio. Mr. President, from my angle here at my desk the clock indicates a half a minute until 3 p.m. now, and I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, if I may have a moment just to answer the distinguished Senator from Washington as he pointed at me directly and said, "How about mass transit?" let me tell the Senate what happened. Included in the housing authorization bill were two amendments unanimously agreed to by the Banking and Currency Committee for mass transit. One was for $75 million to take care of failing mass transportation systems that are going out of business all over the country. The second was for $75 million to take care of mass transit systems that have incurred bonded indebtedness to modernize and yet that cannot meet their obligations.

Mr. MAGNUSON. That is an authorization.

Mr. PERCY. That is correct. And we lost every single solitary penny in conference. Why? Because apparently we do not have the money for mass transit systems that serve tens of millions of low-income people. The Senator asked, "How about mass transit?" The city of Chicago will lose $25 to $30 million in its mass transit operations this year. It will have an accumulated debt of $60 million. In the Banking and Currency Committees conference yesterday they apparently said they did not have one penny, not one penny, to take care of low-income people so that they can get to work, people who have to get to work on public transportation, many of whom do not have cars. What is the matter with the priorities we have in this country today that puts an SST ahead of mass transit in priority for funds?

Mr. PASTORE. Mr. President, may we have order in the Senate?

Several Senators addressed the Chair.

Mr. YOUNG of Ohio. Mr. President, I have the floor, do I not? I have the floor until the majority leader rules otherwise?

Mr. MANSFIELD. Yield the floor.

Mr. YOUNG of Ohio. Mr. President, I yield to the distinguished majority leader.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. FANNIN). The Chair recognizes the Senator from Montana (Mr. MANSFIELD).

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from Nevada.

Mr. BIBLE. Mr. President, I thank the majority leader. My name was used here a moment ago in the matter of time control, in the matter of 30 minutes of time to the distinguished majority leader. I do not control the other 30 minutes. I assure the distinguished Senator from Wisconsin (Mr. PROXMIRE), as I have throughout, that he will get his fair share of the hour, that it usually works out, and always has, all along. We are going to try to be fair. We have always been fair. We have given them five times as much time as we have had in the past few days. We will see that they get fair treatment on tomorrow.

I just wanted to make that observation because it seemed to me he was saying he was being unfairly treated. I never treated anyone unfairly in my life.

Mr. MANSFIELD. The Senator from Nevada is correct.

SOCIAL SECURITY AMENDMENTS OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1443, H.R. 17550, under the agreement.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

H.R. 17550, to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

Without objection, the Senate resumed the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the distinguished Senator from Louisiana (Mr. LONG) is now recognized.

Mr. LONG. Mr. President——

Mr. PASTORE. Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. LONG. Mr. President, I have not informed the Senator from Delaware what I am about to say, but I had informed the Senator from Georgia and I had mentioned the matter to the Senator from Rhode Island; namely, that I intend to move to table the pending amendment to the committee amendment when the bill is laid before the Senate.

Having made that explanation, Mr. President, I now move that the pending amendment——

Mr. JAVITS. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield only for a question.

Mr. JAVITS. I ask the Senator this question. In view of the fact that Members have not been notified, and I know of at least one Member who is on his way here, having heard the rumor. Does not the Senator feel some little time, say, 30 minutes, or a small amount of time, should be granted Members who are within reach but cannot get here——

Mr. LONG. I would be willing, if I could obtain unanimous consent to do so, without prejudice to myself or losing my right to the floor, to suggest the absence of a quorum in order that——

Mr. WILLIAMS of Delaware. Mr. President, we have debated this long enough. Let us face the issue. I would regret if it were tabled. As I said earlier, I did not support putting this provision in, but the Senate should stand up and vote on this trade proposal and I would hope they would not table it now. We could call the roll immediately and vote on it now.

On a direct vote I will vote against the measure.

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

Mr. WILLIAMS of Delaware. After that, they can offer the family assistance plan which I object to, as Senators know, and we can go to a rollcall on that in a short time. Let us do our business and go home. But if we are going to have to vote on this, let us not hide behind a tabling motion—and I say that with all due respect to the opinions of all. Let us face up to it like men. This

is a committee amendment. Let us vote for it on its merits, up or down. I would be willing to call the roll right now to save time.

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

Mr. LONG. If Senators want to have some additional time, that is all right, but the motion is going to be made, and I will ask it in a moment.

I ask unanimous consent that I might suggest the absence of a quorum without prejudicing the rights of the Senator from Louisiana to the floor, I do not want to lose the floor as it might deny me my right to make my motion.

Mr. PASTORE. Mr. President, reserving the right to object——

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

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Louisiana could make his motion to table and still call for a quorum.

Mr. MONDALE. Mr. President——

Mr. LONG. Does the Senator wish me to yield to him for a question or a statement?

Mr. MONDALE. I would like to ask the Senator a question prior to making the motion.

Mr. LONG. I yield for a question.

Mr. MONDALE. My question is this: The Senator is aware, I assume, that the amendment which he seeks to table was only offered yesterday afternoon, and that at this point those who oppose the legislation have not had 1 minute to discuss the merits of this revolutionary change in trade legislation. Does not the Senator from Louisiana think, in light of the fact that one side of this major issue has not been heard, that it might make the making of this motion somewhat premature?

Mr. LONG. What the Senator says, of course, has great logic. When I first came to the Senate, I liked to think, on matters of this sort, that an eloquent speech could change the vote. But this measure has been voted on a number of times, so I do not believe the most eloquent speech ever made in the history of this body would change a single vote. Thus. this Senator feels that this matter should be voted on, and if we could have unanimous consent to vote at some particular moment, I would be willing to consider a unanimous-consent request, but we cannot even get consent to accept the committee amendments en bloc, which is customary. So we must proceed the best way we can.

Mr. PASTORE. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield for a question.

Mr. PASTORE. Would the Senator from Louisiana consider a half hour on agreed time, to take a vote at the termination of the half hour on the merits of this particular amendment as suggested by the Senator from Delaware? We could have a unanimous-consent agreement for one-half hour, with 15 minutes to a side, to discuss this matter just as a recapitulation, because it has been talked to death, and then we would have a vote on the merits. What is wrong with that?

Mr. LONG. Well, Mr. President, if I——

Mr. PASTORE. Then the American people would know—if I may conclude my question please—exactly how the Senate feels about the textile industry.

Mr. LONG. Mr. President, I ask unanimous consent that I might make a unanimous-consent request, without prejudice to my rights to the floor.

The PRESIDING OFFICER. Is there objection?

UNANIMOUS-CONSENT REQUEST

Mr. LONG. Mr. President, I ask unanimous consent that there be 1 hour, to be equally divided between the proponents of the Williams amendment and the opponents of the Williams amendment, the time to be controlled by the Senator from Georgia or the Senator from Delaware if he desires——

Mr. WILLIAMS of Delaware. The Senator from Georgia can do that.

Mr. LONG. In favor of the amendment, and the time in opposition to be controlled by the Senator from New York; and at the conclusion of that 1 hour we will vote on the amendment.

Mr. SCOTT. Mr. President, I will support the motion to table the amendment of the senior Senator from Delaware because I believe it discriminates against other American industries facing similar economic hardships as a result of import policies and increased competition from abroad.

The textile and shoe industries are being seriously hurt by imports, and while I am in sympathy with the amendment offered by the Senator from Delaware, we must remember there are other American industries and American working men and women suffering financial hardships. I, therefore, believe we should act on their behalf also.

I urge the rejection of the amendment and the adoption of such trade legislation as will fairly protect all industries which are being injured by foreign competition.

Mr. LONG. Mr. President, I now move that the pending amendment be laid on the table.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

The PRESIDING OFFICER. The question is on agreeing to the motion to table——

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

The PRESIDING OFFICER. The Senator from Louisiana asked for the yeas and nays. Is there a sufficient second?

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana (Mr. LONG) to table the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

CALL OF THE ROLL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll; and the following Senators answered to their names:

[No. 436 Leg.]

Aiken	Gore	Murphy
Allen	Gravel	Muskie
Allott	Griffin	Nelson
Baker	Gurney	Packwood
Bayh	Hansen	Pastore
Bellmon	Harris	Pearson
Bennett	Hart	Pell
Bible	Hartke	Percy
Boggs	Holland	Prouty
Brooke	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Va.	Hughes	Ribicoff
Byrd, W. Va.	Inouye	Saxbe
Cannon	Jackson	Schweiker
Case	Javits	Scott
Church	Jordan, N.C.	Smith
Cook	Jordan, Idaho	Sparkman
Cooper	Kennedy	Spong
Cotton	Long	Stennis
Cranston	Magnuson	Stevens
Curtis	Mansfield	Stevenson
Dole	McCarthy	Symington
Eagleton	McClellan	Talmadge
Eastland	McGovern	Thurmond
Ellender	McIntyre	Tower
Ervin	Metcalf	Williams, N.J.
Fannin	Miller	Williams, Del.
Fong	Mondale	Yarborough
Fulbright	Montoya	Young, N. Dak.
Goldwater	Moss	Young, Ohio

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. MCGEE), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Maryland (Mr. TYDINGS) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. GOODELL), and the Senator from Oregon (Mr. HATFIELD) are absent on official business.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the motion of the Senator from Louisiana to lay on the table the amendment of the Senator from Delaware (Mr. WILLIAMS). On this question the yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MURPHY (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Oregon (Mr. HATFIELD). If he were present and voting he would vote "aye." If I were at liberty to vote I would vote "nay." I withhold my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Wyoming (Mr. MCGEE), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that the Senator from Maryland (Mr. TYDINGS) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from New York (Mr. GOODELL), and the Senator from Oregon (Mr. HATFIELD) are absent on official business.

The Senator from Colorado (Mr. DOMINICK), and the Senator from South

Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Maryland (Mr. MATHIAS) is detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

The pair of the Senator from Oregon (Mr. HATFIELD) has been previously announced.

On this vote, the Senator from Maryland (Mr. MATHIAS) is paired with the Senator from Colorado (Mr. DOMINICK). If present and voting, the Senator from Maryland would vote "yea" and the Senator from Colorado would vote "nay."

The result was announced—yeas 31, nays 58, as follows:

[No. 437 Leg.]

YEAS—31

Aiken	Hart	Packwood
Bellmon	Hughes	Percy
Bennett	Inouye	Ribicoff
Burdick	Jackson	Saxbe
Cooper	Javits	Scott
Cranston	Kennedy	Stevens
Fong	Long	Stevenson
Fulbright	Mansfield	Yarborough
Gravel	McGovern	Young, Ohio
Griffin	Miller	
Harris	Mondale	

NAYS—58

Allen	Church	Gore
Allott	Cook	Gurney
Baker	Cotton	Hansen
Bayh	Curtis	Hartke
Bible	Dole	Holland
Boggs	Eagleton	Hollings
Brooke	Eastland	Hruska
Byrd, Va.	Ellender	Jordan, N.C.
Byrd, W. Va.	Ervin	Jordan, Idaho
Cannon	Fannin	Magnuson
Case	Goldwater	McCarthy
McClellan	Pell	Symington
McIntyre	Prouty	Talmadge
Metcalf	Proxmire	Thurmond
Montoya	Randolph	Tower
Moss	Schweiker	Williams, N.J.
Muskie	Smith	Williams, Del.
Nelson	Sparkman	Young, N. Dak.
Pastore	Spong	
Pearson	Stennis	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Murphy, against.

NOT VOTING—10

Anderson	Hatfield	Russell
Dodd	Mathias	Tydings
Dominick	McGee	
Goodell	Mundt	

Mr. LONG's motion to lay on the table the amendment (No. 1158) of Mr. WILLIAMS of Delaware was rejected.

Mr. SCOTT and Mr. LONG addressed the Chair.

The PRESIDING OFFICER (Mr. COOK). The Chair recognizes the Senator from Pennyslvania.

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

Mr. SCOTT. Mr. President, I yield to the distinguished majority leader.

Might I yield first to the Senator from Rhode Island (Mr. PASTORE) without losing my right to the floor?

Mr. PASTORE. Mr. President, I move to reconsider the vote by which the motion was rejected.

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

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, I yield to the distinguished majority leader, if I may do so without losing my right to the floor.

Mr. MANSFIELD. Mr. President, the Chamber is getting a little crowded, and I would hope that there would be a little clearing out of the Chamber so that Senators can find their way around. I do not like the idea of attachés sitting on the floor in this Chamber. I would suggest that the Sergeant at Arms be instructed to make sure that those who have no business here go; the rest can stay.

The PRESIDING OFFICER. Without objection, the Sergeant at Arms is instructed to follow the order of the Senate.

Mr. SCOTT. Mr. President, I send an amendment to the desk and ask that the clerk read it.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read the amendment, as follows:

At the bottom of page 6, insert the following: "at the end of the table proposed to be stricken out."

At the bottom of page 6, insert the following:

"There shall be added to the primary insurance amount of each individual and the maximum amount of benefits payable on the basis of his wages and self-employment income, computed as provided above, amounts equal to those necessary to increase such primary insurance amount and maximum amount, respectively, to the amounts which would result from use of the following table instead of the preceding table:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount under 1967 act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$26.94	$90.60 or less	----------	$113	$100.00	$150.00
$26.95	27.46	91.90	$114	118	101.10	151.70
27.47	28.00	93.30	119	122	102.70	154.10
28.01	28.58	94.70	123	127	104.20	156.30
28.69	29.25	96.20	128	132	105.90	158.90
29.26	29.68	97.50	133	136	107.30	161.00
29.69	30.36	98.80	137	141	108.70	163.10
30.37	30.92	100.30	142	146	110.40	165.60
30.93	31.36	101.70	147	150	111.90	167.90
31.37	32.00	103.00	151	155	113.30	170.00
32.01	32.60	104.50	156	160	115.00	172.50
32.61	33.20	105.80	161	164	116.40	174.60
33.21	33.88	107.20	165	169	118.00	177.00
33.89	34.50	108.60	170	174	119.50	179.30
34.51	35.00	110.00	175	178	121.00	181.50
35.01	35.80	111.40	179	183	122.60	183.90
35.81	36.40	112.70	184	188	124.00	186.00
36.41	37.08	114.20	189	193	125.70	188.60
37.09	37.60	115.60	194	197	127.20	190.80
37.61	38.20	116.90	198	202	128.60	192.90
38.21	39.12	118.40	203	207	130.30	195.50
39.13	39.68	119.80	208	211	131.80	197.70
39.69	40.33	121.00	212	216	133.10	199.70
40.34	41.12	122.50	217	221	134.80	202.20
41.13	41.76	123.90	222	225	136.30	204.50
41.77	42.44	125.30	226	230	137.90	206.90
42.45	43.20	126.70	231	235	139.40	209.10
43.21	43.76	128.20	236	239	141.10	211.70
43.77	44.44	129.50	240	244	142.50	214.80
44.45	44.88	130.80	245	249	143.90	219.20
44.89	45.60	132.30	250	253	145.60	222.70
		133.70	254	258	147.10	227.10
		134.90	259	263	148.40	231.50
		136.40	264	267	150.10	235.00
		137.80	268	272	151.60	239.40
		139.20	273	277	153.20	243.80
		140.60	278	281	154.70	247.30
		142.00	282	286	156.20	251.70
		143.50	287	291	157.90	256.10
		144.70	292	295	159.20	259.60
		146.20	296	300	160.90	264.00
		147.60	301	305	162.40	268.40
		148.90	306	309	163.80	272.00
		150.40	310	314	165.50	276.40
		151.70	315	319	166.90	280.80
		153.00	320	323	168.30	284.30
		154.50	324	328	170.00	288.00
		155.90	329	333	171.50	293.10
		157.40	334	337	173.20	296.60
		158.60	338	342	174.50	301.00
		160.00	343	347	176.00	305.40
		161.50	348	351	177.70	308.90
		162.80	352	356	179.10	313.30
		164.30	357	361	180.80	317.70
		165.60	362	365	182.20	321.20
		166.90	366	370	183.60	325.60
		168.40	371	375	185.30	330.00
		169.80	376	379	186.80	333.60
		171.30	380	384	188.50	338.00
		172.50	385	389	189.80	342.40
		173.90	390	393	191.30	345.90
		175.40	394	398	193.00	350.30
		176.70	399	403	194.40	354.70

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$178.20	$404	$407	$196.10	$358.20
		197.40	408	412	197.40	362.60
		180.70	413	417	198.80	367.00
		182.00	418	421	200.20	370.50
		183.40	422	426	201.80	374.90
		184.60	427	431	203.10	379.30
		185.90	432	436	204.50	383.70
		187.30	437	440	306.10	385.50
		188.50	441	445	207.40	387.70

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$189.80	$446	$450	$208.80	$389.90
		191.20	451	454	210.40	391.60
		192.40	455	459	211.70	393.80
		193.70	460	464	213.10	396.00
		195.00	465	468	214.50	397.80
		196.40	469	473	216.10	400.00
		197.60	474	478	217.40	402.20
		198.90	479	482	218.80	404.00
		200.30	483	487	220.40	406.20

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$26.94	$90.60 or less	----------	$113	$100.00	$150.00
$26.95	27.46	91.90	$114	118	101.10	151.70
27.47	28.00	93.30	119	122	102.70	154.10
28.01	28.68	94.70	123	127	104.20	156.30
28.69	29.25	96.20	128	132	105.90	158.90
29.26	29.68	97.50	133	136	107.30	161.00
29.69	30.36	98.80	137	141	108.70	163.10
30.37	30.92	100.30	142	146	110.40	165.60
30.93	31.96	101.70	147	150	111.90	167.90
31.37	32.00	103.00	151	155	113.30	170.00
32.01	32.60	104.50	156	160	115.00	172.50
32.61	33.20	105.80	161	164	116.40	174.60
33.21	33.88	107.20	165	169	118.00	177.00
33.89	34.50	108.60	170	174	119.50	179.30
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36.41	37.08	114.20	189	193	125.70	188.60
37.09	37.60	115.60	194	197	127.20	190.80
37.61	38.20	116.90	198	202	128.60	192.90
38.21	39.12	118.40	203	207	130.30	195.50
39.13	39.68	119.80	208	211	131.80	197.70
39.69	40.33	121.00	212	216	133.10	199.70
40.34	41.12	122.50	217	221	134.80	202.20
41.13	41.76	123.90	222	225	136.30	204.50
41.77	42.44	125.30	226	230	137.90	206.90
42.45	42.20	126.70	231	235	139.40	209.10
43.21	43.76	128.20	236	239	141.10	211.70
43.77	44.44	129.50	240	244	142.50	214.80
44.45	44.88	130.80	245	249	143.90	219.20
44.80	45.60	132.30	250	253	145.60	222.70
		133.70	254	258	147.10	227.10
		134.90	259	263	148.40	231.50
		136.40	204	267	150.10	235.00
		137.80	268	272	151.60	239.40
		139.20	273	277	153.20	243.80
		140.60	278	281	154.70	247.30
		142.00	282	286	156.20	251.70
		143.50	287	291	157.90	256.10
		144.70	292	295	159.20	259.60

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		he amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$146.20	$296	$300	$160.90	$264.00
		147.60	301	305	162.40	268.40
		148.90	306	309	163.80	272.00
		150.40	310	314	165.50	276.40
		151.70	315	319	166.90	280.80
		153.00	320	323	168.30	284.30
		154.50	324	328	170.00	288.00
		155.90	329	333	171.50	293.10
		157.40	334	337	173.20	296.60
		158.60	338	342	174.50	301.00
		160.00	343	347	176.00	305.40
		161.50	348	351	177.70	308.90
		162.80	352	356	179.10	313.30
		164.30	357	361	180.80	317.70
		165.60	362	365	182.20	321.20
		166.90	366	370	183.60	325.60
		168.40	371	375	185.30	330.00
		169.80	376	379	186.80	333.60
		171.30	380	384	188.50	338.00
		172.50	385	389	189.80	342.40
		173.00	390	393	191.30	345.90
		175.40	394	398	193.00	350.30
		176.70	399	403	194.40	354.70
		178.20	404	407	196.10	358.20
		177.40	408	412	197.40	362.60
		180.70	413	417	198.80	367.00
		182.00	418	421	200.20	370.50
		183.40	422	426	201.80	374.90
		184.80	427	431	203.10	379.30
		185.90	432	436	204.50	383.70
		187.30	437	440	206.10	385.50
		188.50	441	445	207.40	387.70
		189.80	446	450	208.80	389.90
		191.20	451	454	210.40	391.60
		192.40	455	459	211.70	393.80
		193.70	460	464	213.10	396.00
		195.00	465	468	214.50	397.80
		196.40	469	473	216.10	400.00
		197.60	474	478	217.40	402.20
		198.90	479	482	218.80	404.00
		200.30	483	487	220.40	406.20

Mr. SCOTT. Mr. President, this is a perfecting amendment to the House language proposed to be stricken, and I propose to put into effect a minor change upward to the effected changes by the Senate committee in the social security charts.

Mr. RIBICOFF. Mr. President, I send to the desk an amendment to the amendment offered by the Senator from Pennsylvania (Mr. SCOTT) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. The Senator from Connecticut (Mr. RIBICOFF) proposes an amendment to the amendment of the Senator from Pennsylvania, to add new language at the end thereof——

Mr. RIBICOFF. Mr. President, I ask

unanimous consent that further reading of the amendment be dispensed with. The amendment at the desk is the family assistance plan which has been at the desk since December 9, with renumbering of sections.

Mr. MILLER. Mr. President, reserving the right to object, may I ask the Senator from Connecticut a question? Will the Senator yield for a question?

Mr. RIBICOFF. I yield for a question.

Mr. MILLER. Do I understand that the way the amendment is now before the Senate, it is an amendment in the second degree and therefore no amendments to it are possible?

Mr. RIBICOFF. That is correct.

Mr. MILLER. I object to the unanimous-consent request.

The PRESIDING OFFICER. The clerk will read the amendment.

Mr. MANSFIELD. Mr. President, will the Senator withhold that for a while?

Mr. HANSEN. Mr. President, may we have order so we can hear every word of the amendment being read?

Mr. SCOTT. Mr. President, will the Senator yield for a request? The amendment is at the desk and it is about to be read and it is the pending business. Would the Senator consent to yielding for a moment, and I will ask unanimous consent for a colloquy with the distinguished majority leader on a matter of the highest importance?

Mr. RIBICOFF. Provided that I do not lose the floor.

Mr. SCOTT. I would like to ask the distinguished majority leader, because this is a matter of the very greatest interest to all Senators here——

Mr. LONG. Mr. President, I object to the request. The Senator cannot hold the floor and farm it out. It is all right with me to give consent, but I do not think any Senator can hold the floor while it goes on.

Mr. HANSEN. Mr. President, a parliamentary inquiry. Is it in order for the reading of the amendment to be interrupted?

The PRESIDING OFFICER. The clerk had not started to read the amendment yet.

Mr. SCOTT. Mr. President, I can only repeat, this is a matter of the greatest importance, which all Senators will want to hear.

Mr. HANSEN. I am sure they will.

The PRESIDING OFFICER. It is the ruling of the Chair that the request for dispensing with the reading of the amendment was made by the Senator from Connecticut and was objected to by the Senator from Iowa. The clerk will read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that the majority leader be recognized for 2 minutes prior to the reading of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ERVIN. Mr. President, from the last objection, I understood that the Senator would not consent to dispense with the reading of the amendment.

Mr. LONG. No, I am only asking unanimous consent that prior to the reading of the amendment the majority leader be recognized for 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Will Senators take seats, or at least walk in silence?

Mr. MANSFIELD. Mr. President, the distinguished minority leader and I have had several meetings over the last few days discussing the situation in which the Senate finds itself in the declining days of this Congress.

We are disturbed at the image which this body is showing to the American people, but we are more disturbed at the image we are showing to ourselves. We are facing a most difficult period in the history of the Senate and the Nation—and the two are synonymous—and we think that it is vital that we have a meeting to discuss this impasse, and it is the intention of the distinguished minority leader and me to ask for an executive meeting of the Senate at the conclusion of the vote on cloture tomorrow.

Mr. SCOTT. Which would take place at 11 o'clock, on the assumption that we are convening at 10 a.m. tomorrow, is that correct?

Mr. MANSFIELD. We are convening at 9. The first hour is set aside. Then the vote is to take place at 11 a.m. with the hour commencing at 10 a.m. under controlled time.

The purpose is that the leadership wants to lay the problem before the Senate and seek its advice as to what the Senate wants done to get out of the impasse in which we find ourselves. We will have a list of filibusters now in being and of filibusters proposed, and we will try to lay out to our colleagues just what the consequences will be if we do not get together and do what has to be done collectively. Alone, the leaders have no power—only that grace which Senators give them.

We want your advice and counsel. We are not disturbed about the image outside, but we are very disturbed about the image of the Senate to the Senate itself; and we would hope, on the basis of your considering this matter tonight, that when the meeting is called tomorrow, we will be able to get together and work ourselves, in some fashion, out of the impasse in which this body—and this body alone—finds itself at the present time. I think that the Senate owes the country no less.

Mr. SCOTT. Mr. President, would the distinguished majority leader permit me to make an observation? I simply want to say that I agree. Tomorrow we can meet with the filibusterers and those who would be the busters of the filibusters, and see whether or not it is possible for the Senate to begin to make sense this late in the day.

Several Senators addressed the Chair.

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

Mr. MANSFIELD. May we have 1 more minute?

The PRESIDING OFFICER. Is there objection?

Mr. MANSFIELD. I yield to the Senator from Rhode Island.

Mr. PASTORE. Does not the majority leader think it would be more expeditious that we hold such an executive meeting tonight, before the cloture vote is taken? I am afraid the cloture vote is going to stiffen a situation that is already too stiff: If we could have it before that cloture vote, maybe we could resolve some differences.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the hour of 7 o'clock this evening, the Senate go into a closed executive session.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MANSFIELD. Mr. President, I wish to announce that at the hour of 7 o'clock tonight, I will make a motion that the Senate go into closed session.

Mr. MILLER. Mr. President, I ask unanimous consent that I may ask the Senator from Connecticut a question.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. May I have the attention of the Senator from Connecticut?

Mr. MANSFIELD. Any time is all right with me, if we will just face up to our responsibilities and get away from this charade we have been going through. The Senator from Rhode Island wants it tonight.

Several voices. Five o'clock.

Mr. MANSFIELD. The Senator from Iowa wants it some other time.

Mr. MILLER. No. I want to ask the Senator from Connecticut a question.

Several voices. Right now.

Mr. STENNIS. Mr. President, I call for the regular order.

The PRESIDING OFFICER. The regular order has been called for, and the clerk will read the amendment.

Mr. STENNIS. The regular order is that the Senator from Montana has the floor.

Mr. MILLER. Mr. President, did not the Chair rule that unanimous consent had been granted for the Senator from Iowa to ask the Senator from Connecticut a question?

Mr. MANSFIELD. Mr. President, I believe I have the floor on the sufferance of the Senator from Connecticut and the Senate, and I wish to announce that at the hour of 5 o'clock there will be an executive session.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. What is the status of the Williams amendment?

The PRESIDING OFFICER. The Williams amendment is a pending amendment. It is a pending amendment, but the amendment by the Senator from Pennsylvania and the one by the Senator from Connecticut take precedence over that amendment at the present time.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield me 2 minutes?

Mr. MILLER. Mr. President, do I have unanimous consent to ask the Senator from Connecticut a question?

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, I would like to ask the Senator from Connecticut whether he would consider making a unanimous-consent request that his pending amendment be open to amendments, and preferably with a time limitation.

Mr. RIBICOFF. Mr. President, let me explain to the Senator from Iowa why this cannot be done.

As the Senator realizes, yesterday when the Senator from Delaware made his unanimous-consent request, I was quick to accede to it, after discussions with the Senator from Delaware. I was most anxious to give every Member of this body an opportunity to file amendments and vote on the amendments to the family assistance program.

The unanimous-consent request to the Senator from Delaware was objected to. Then we found ourselves with the trade amendment. Now, if I make this unanimous-consent request, the family assistance program would then be open to any other kind of amendment, so we would be back in the same impasse where we were before.

I was reluctant to be in a position to offer family assistance on a take it-or-leave-it basis, but the attitude of many Members of this body was such that we had no alternative. I have had frequent discussions with my cosponsor, the Senator from Utah (Mr. BENNETT); and I have had frequent discussions with the leadership, and with the Senator from Delaware and the Senator from Oklahoma (Mr. HARRIS); and we thought we had worked out a procedure, keeping in mind the interests of the Senator from Iowa and the Senator from Oklahoma (Mr. HARRIS); but unfortunately what we tried to do we were frustrated in, and we now find that under the parliamentary procedures and the rules, we have no alternative but to follow the procedure that we have followed, in order to try to bring the family assistance program to a vote, and that is why I regret that I am unable to accede to the Senator's request at this time.

Mr. MILLER. Mr. President, may I ask unanimous consent that I may ask a further question?

The PRESIDING OFFICER (Mr. COOK). The Senator's question has been asked and answered, and the clerk will proceed with the reading of the amendment.

Mr. MILLER. Mr. President, a point of order. Is it not in order for the Chair to entertain a unanimous-consent request concerning the pending amendment?

The PRESIDING OFFICER. The Chair rules that the clerk had started to read the amendment. He should not have been interrupted, and the amendment will be read.

Mr. MILLER. Mr. President, a point of order. I thought I heard the Chair state that the clerk had not begun reading the amendment.

The PRESIDING OFFICER. The Chair never had that opportunity, I might say to the Senator from Iowa.

Mr. MILLER. Mr. President, may we have the reporter read back the RECORD on that point?

The PRESIDING OFFICER. The Official Reporter may do so.

Mr. LONG. Regular order, Mr. President.

The PRESIDING OFFICER. The regular order having been requested, the regular order is that the clerk shall read the amendment. So the clerk may proceed to read the amendment.

The legislative clerk read as follows:

Strike out title V of the bill and insert in lieu thereof the following:

SHORT TITLE

(1) The following paragraphs of this subsection with the following table of contents may be cited as the "Family Assistance Act of 1970".

TABLE OF CONTENTS

(11) Establishment of family assistance plan.

"PART D—FAMILY ASSISTANCE PLAN

"Sec. 441. Appropriations".

Mr. ERVIN. Mr. President, may we have order?

The PRESIDING OFFICER. It was the request of the Senate that the amendment be read. I would hope the Members of the Senate meant what they said and that they would do the clerk the courtesy of listening to the amendment.

Mr. WILLIAMS of Delaware. Mr. President, may we have the clerk start over again?

The PRESIDING OFFICER. I think the clerk should be allowed to continue to read where he left off.

The legislative clerk read as follows:

"Sec. 442. Eligibility for and amount of family assistance benefits.
"(a) Eligibility.
"(b) Amount.
"(c) Period for determination of benefits.
"(d) Special limits on gross income.
"(e) Puerto Rico, the Virgin Islands, and Guam.
"Sec. 443. Income.
"(a) Meaning of income.
"(b) Exclusions from income.
"Sec. 444. Resources.
"(a) Exclusions from resources.
"(b) Disposition of resources.
"Sec. 445. Meaning of family and child.
"(a) Composition of family.
"(b) Definition of child.
"(c) Income and resources of noncontributing individual.
"(d) Recipients of aid to the aged, blind, and disabled ineligible.
"Sec. 446. Payments and procedures.
"(a) Payments of benefits.
"(b) Overpayments and underpayments.
"(c) Hearings and review.
"(d) Procedures; prohibition of assignments.
"(e) Applications and furnishings of information by families.
"(f) Furnishing of information by other agencies.
"(g) Application for other benefits or payments".

Mr. HANSEN. Mr. President, may we have order?

The PRESIDING OFFICER. The clerk will suspend.

The Members of the Senate will please take their seats. Conversations should take place outside the Chamber.

The Clerk will proceed.

The legislative clerk read as follows:

"Sec. 447. Registration and referral of family members for manpower or rehabilitation services, training, and employment.
"Sec. 448. Denial of benefits in case of refusal of manpower or rehabilitation services, training, or employment.
"Sec. 449. Transfer of funds for on-the-job training programs.

"PART E—STATE SUPPLEMENTATION OF FAMILY ASSISTANCE BENEFITS

"Sec. 451. Payments under titles IV, V, XVI, and XIX conditioned on supplementation.
"Sec. 452. Eligibility for and amount of supplementary payments.
"Sec. 453. Payments to States.
"Sec. 454. Failure by State to comply with agreement.
"Sec. 455. Definitions.

"PART F—ADMINISTRATION

"Sec. 461. Agreements with States.
"Sec. 462. Penalties for fraud.
"Sec. 463. Report, evaluation, research and demonstrations, and training and technical assistance.
"Sec. 464. Obligation of deserting parents.
"Sec. 465. Treatment of family assistance benefits as income for food stamp purposes".

(12) Manpower services, training, employment, and child care programs.

"PART C—MANPOWER SERVICES, TRAINING, EMPLOYMENT, AND CHILD CARE PROGRAMS FOR RECIPIENTS OF FAMILY ASSISTANCE BENEFITS OR SUPPLEMENTARY PAYMENTS

"Sec. 430. Purpose.
"Sec. 431. Operation of manpower services, training, and employment programs.
"Sec. 432. Allowances for individuals undergoing training.
"Sec. 433. Utilization of other programs.
"Sec. 434. Rules and regulations.
"Sec. 435. Appropriations; and non-Federal share.
"Sec. 436. Child care.
"Sec. 437. Supportive services.
"Sec. 438. Advance funding.
"Sec. 439. Reports to Congress".

(13) Conforming amendments relating to assistance for needy families with children.

(14) Changes in headings.

(15) Pretesting and evaluation of family assistance.

(21) Grants to States for aid to the aged, blind, and disabled.

Mr. HANSEN. Mr. President, I am not following the clerk. It appears to me that some parts are being skipped. I think this is a very important bill. Senators are going to be called upon to vote on something about which most of them do not know. All they know is what they have read in the paper. I should like to observe that I think it is important that we follow the text.

The PRESIDING OFFICER. The Chair would inform the Senator from Wyoming that in the amendment proposed by the Senator from Connecticut certain sections have been stricken out in the amendment as proposed by the Senator, and these appear in the reading by the clerk. If they are not stricken out in the copy that the Senator from Wyoming has, he will consider them as having been stricken out if the clerk does not read them.

Mr. HANSEN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. Is the section which was just read, "Grants to States for aid to the aged, blind, and disabled," numbered?

The PRESIDING OFFICER. Will the Senator from Wyoming come to the clerk's desk with the clerk and the copy

submitted by the Senator from Connecticut?

The Chair might suggest to the Members of the Senate that the Senator from Connecticut has modified his amendment in relation to the amendment that the Senators have on their desks. The clerk is reading the modification.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. When the vote comes up on the Ribicoff-Bennett amendment, will that vote be limited to voting up or down the language that the clerk has read? We are told that the amendment was to be read in full and that no amendment to the amendment would be allowed. My question is, When the vote is taken, will it be limited to the words that the clerk has read?

The PRESIDING OFFICER. The Senator's assumption is correct—that the vote will take place on the language as read by the clerk in the modified amendment as submitted by the Senator from Connecticut.

Mr. WILLIAMS of Delaware and Mr. ERVIN addressed the Chair.

Mr. CURTIS. No other language?

The PRESIDING OFFICER. That is correct. He may modify that amendment himself until the Senate takes some action on it.

Mr. RIBICOFF. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. RIBICOFF. Is the clerk reading the titles or is he reading the full text?

The PRESIDING OFFICER. He is reading the full text of the amendment as submitted by the Senator from Connecticut.

Mr. WILLIAMS of Delaware. Mr. President——

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum——

Mr. WILLIAMS of Delaware. Mr. President——

Mr. LONG. Mr. President, the clerk was reading the amendment, and I therefore insist on the regular order because the reading by the clerk is being interrupted to suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COOK). By unanimous consent it could be, otherwise the clerk will proceed to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President——

The PRESIDING OFFICER. The regular order having been called for, the clerk will proceed to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President——

The legislative clerk proceeded to read the amendment as follows:

"TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, AND DISABLED

"Sec. 1601. Appropriations.

"Sec. 1602. State plans for financial assistance and services to the aged, blind, and disabled.

"Sec. 1603. Determination of need.

"Sec. 1604. Payments to States for aid to the aged, blind, and disabled.

"Sec. 1605. Alternate provision for direct Federal payments to individuals.

"Sec. 1606. Overpayments and underpayments.

"Sec. 1607. Operation of State plans.

"Sec. 1608. Payments to States for services and administration.

"Sec. 1609. Computation of payments to States.

"Sec. 1610. Definition".

(22) Repeal of titles I, X, and XIV of the Social Security Act.

(23) Transition provision relating to overpayments and underpayments.

(24) Transition provision relating to definitions of blindness and disability.

(31) Amendment to section 228(d).

(32) Amendments to title XI.

(33) Amendments to title XVIII.

(34) Amendments to title XIX.

PART D—GENERAL

(41) Effective date.

(42) Saving provision.

(43) Special provisions for Puerto Rico, the Virgin Islands, and Guam.

(44) Additional supergrades for Departments of Health, Education, and Welfare and Labor.

(45) References in other Acts.

(46) Additional remedies for State noncompliance.

(47) Amendments to title IV, part A.

(48) Meaning of Secretary and fiscal year.

DECLARATION OF GOAL

The Congress hereby establishes a national goal of assuring all citizens, through work or assistance, in this decade, an income adequate to sustain a decent level of life and to eliminate poverty among our people.

(11) Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by adding after part C the following new parts:

"PART D—FAMILY ASSISTANCE PLAN

"APPROPRIATIONS

"SEC. 441. For the purpose of providing a basic level of financial assistance throughout the Nation to needy families with children, in a manner which will strengthen family life, encourage work training and self-support, and enhance personal dignity, there is authorized to be appropriated for each fiscal year a sum sufficient to carry out this part.

"ELIGIBILITY FOR AND AMOUNT OF FAMILY ASSISTANCE BENEFITS

"Eligibility

"SEC. 442. (a) Each family (as defined in section 445)—

"(1) whose income, other than income excluded pursuant to section 443(b), is at a rate of less than—

"(A) $500 per year for each of the first two members of the family, plus

"(B) $300 per year for each additional member, and

"(2) whose resources, other than resources excluded pursuant to section 444, are less than $1,500, shall, in accordance with and subject to the other provisions of this title, be paid a family assistance benefit.

"Amount

"(b) The family assistance benefit for a family shall be payable at the rate of—

"(1) $500 per year for each of the first two members of the family, plus

"(2) $300 per year for each additional member, reduced by the amount of income, not excluded pursuant to section 443(b), of the members of the family.

"Period for Determination of Benefits

"(c)(1) A family's eligibility for and its amount of family assistance benefits shall be determined for each quarter of a calendar year, beginning with the quarter in which application for such benefits is made and within 30 days following the date upon which such application is initially filed. Such determination shall be made on the basis of the Secretary's estimate of the family's income for such quarter, and such estimate shall in turn be based on income for a preceding period unless he has reason to believe that modifications in income have or are likely to occur on the basis of changes in conditions or circumstances. The Secretary shall redetermine eligibility for and amount of benefits of a family for a quarter if at any time during such quarter he has reason to believe that there have been changes affecting such eligibility or amount of benefits and such redetermination shall be effective beginning with the month following the month in which such changes occurred.

"(2) In the case of an application for family assistance benefits which is filed after the first day of a quarter, the amount determined pursuant to paragraph (1) for such quarter shall be reduced by an amount which bears the same ratio to the amount determined pursuant to such paragraph as the number of days in the quarter preceding the date on which the application was filed bears to the total number of days in such quarter.

"(3) The Secretary may, in accordance with regulations, prescribe the cases in which and the extent to which income received in one period (or expenses incurred in one period in earning income) shall, for purposes of determining eligibility for and amount of family assistance benefits, be considered as received (or incurred) in another period or periods.

"Special Limits on Gross Income

"(d) The Secretary may, in accordance with regulations, prescribe the circumstances under which the gross income from a trade or business (including farming) will be considered sufficiently large to make such family ineligible for such benefits. For the purposes of this subsection, the term 'gross income' has the same meaning as when used in the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

"Puerto Rico, the Virgin Islands, and Guam

"(e) For special provisions applicable to Puerto Rico, the Virgin Islands, and Guam, see section 1108(e).

"INCOME

"Meaning of Income

"SEC. 443. (a) For purposes of this part, income means both earned income and unearned income and—

"(1) earned income means only—

"(A) remuneration for services performed as an employee (as defined in section 210(j)), other than remuneration to which section 209 (b), (c), (d), (f), or (k), or section 211 would apply; and

"(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following clause (C) of subsection (a)(9)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

"(2) unearned income means all other income, including—

"(A) any payments received as an annuity, pension, retirement, or disability benefit, including veteran's or workmen's compensation and old-age, survivors, and disability insurance, railroad retirement, and unemployment benefits;

"(B) support and alimony payments,

"(C) rents, dividends, interest, and royalties; and

"(D) regularly recurring payments excluded from earned income under clause (1)(A), which are intended to replace earned income, whether for a temporary or indefinite period of time.

"Exclusions From Income

"(b) In determining the income of a family there shall be excluded—

"(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, the earned income of each child in the family who is, as determined by the Secretary

under regulations, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment;

"(2)(A) the total unearned income of all members of a family in a calendar quarter which is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter, and (B) the total earned income of all members of a family in a calendar quarter which is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

"(3) an amount of earned income of a member of the family equal to the cost incurred by such member for child care which the Secretary deems necessary to securing or continuing in manpower training, vocational rehabilitation, employment, or self-employment except that such amount may not exceed the cost, established for purposes of section 436(c), of child care of the same type as that provided pursuant to section 436;

"(4) the first $720 per year (or proportionately smaller amounts for shorter periods) of the total of earned income (not excluded by the preceding paragraphs of this subsection) of all members of the family plus one-half of the remainder thereof;

"(5) food stamps or any other assistance (except veterans' pensions) which is based on need and furnished by any State or political subdivision of a State or any Federal agency, or by any private agency or organization exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) as an organization described in section 501(c) (3) or (4) of the Internal Revenue Code (26 U.S.C. 501(c) (3) and (4));

"(6) allowances under section 432(a) or under section 437(d);

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the reading of the amendment be temporarily suspended——

Mr. ERVIN. Mr. President, objection.

Mr. WILLIAMS of Delaware (continuing). In order that I might ask for the yeas and nays.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the reading of the amendment.

Mr. ERVIN. Mr. President, is that the only purpose?

Mr. WILLIAMS of Delaware. That is the only purpose.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection has been heard. The clerk will resume the reading of the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I thought they wanted to vote.

The legislative clerk resumed the reading of the amendment as follows:

"(7) any portion of a scholarship or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

"(8) home produce of a member of the family utilized by the household for its own consumption; and

"(9) any amounts received for the foster care of a child who is living in the same home as the family but is not a member of the family.

"RESOURCES

"Exclusions From Resources

"SEC. 444. (a) In determining the resources of a family there shall be excluded—

"(1) the home, household goods, and personal effects; and

"(2) other property which, as determined in accordance with and subject to limitations in regulations of the Secretary, is so essential to the family's means of self-support as to warrant its exclusion.

"Disposition of Resources

"(b) The Secretary shall prescribe regulations applicable to the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining a family's eligibility for family assistance benefits. Any portion of the family's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

"MEANING OF FAMILY AND CHILD

"Composition of Family

"SEC. 445. (a) Two or more individuals—

"(1) who are related by blood, marriage, or adoption,

"(2) who are living in a place of residence maintained by one or more of them as his or their own home,

"(3) who are residents of the United States, and

"(4) at least one of whom is a child who (A) is not married to another of such individuals and (B) is in the care of or dependent upon another of such individuals,

shall be regarded as a family for purposes of this part and parts A, C, and E. A parent (of a child living in a place of residence referred to in paragraph (2)), or a spouse of such a parent, who is determined by the Secretary to be temporarily absent from such place of residence for the purpose of engaging in or seeking employment or self-employment (including military service) shall nevertheless be considered (for purposes of paragraph (2)) to be living in such place of residence.

"DEFINITION OF CHILD

"(b) For purposes of this part and parts C and E, the term 'child' means an individual who is (1) under the age of eighteen, or (2) under the age of twenty-one and (as determined by the Secretary under regulations) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

"Income and Resources of Noncontributing Individual

"(c) For purposes of determining eligibility for and the amount of family assistance benefits for any family there shall be excluded the income and resources of any individual, other than a parent of a child (or a spouse of a parent in cases in which under applicable State law such spouse is responsible for the support of the child), which, is not available to other members of the family; and for such purposes such individual—

"(1) in the case of a child, shall be regarded as a member of the family for purposes of determining the family's eligibility for such benefits but not for purposes of determining the amount of such benefits, and

"(2) in any other case, shall not be considered a member of the family for any purpose.

"Recipients of Aid to the Aged, Blind, and Disabled Ineligible

"(d) If an individual is receiving aid to the aged, blind, and disabled under a State plan approved under title XVI, or if his needs are taken into account in determining the need of another person receiving such aid, then, for the period for which such aid is received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the family assistance benefits of the family and his income and resources shall not be counted as income of a family under this part.

"PAYMENTS AND PROCEDURES

"Payments of Benefits

"SEC. 446. (a)(1) Family assistance benefits shall be paid not less frequently than monthly, except that such benefits may be paid quarterly in any case in which the Secretary determines that the amount of such benefits for a quarter will not exceed $30.

"(2) Payment of the family assistance benefits of any family may be made to any one or more members of the family, or, if the Secretary finds, after reasonable notice and opportunity for hearing (which shall be held in the same manner and subject to the same conditions as a hearing under section 446(c) (1) and (2)) to the family member or members to whom the family assistance benefits are (or, but for this provision, would be) paid, that such member or members have such inability to manage funds that making payment to such member or members would be contrary to the welfare of the child or children in such family, he may make payment to any person, other than a member of such family, who is interested in or concerned with the welfare of the family. If the Secretary makes payment to a person who is not a member of the family, he shall review his finding under the preceding sentence periodically to determine whether the conditions justifying such finding still exist, and, if they do not, he shall discontinue making payments to any person who is not a member of the family. If it appears to the Secretary that such conditions are likely to continue beyond a period specified by him, he shall attempt to secure the appointment of a guardian or other legal representative for the family member with respect to whom such finding is made, and take any other steps he may find appropriate to protect the welfare of the child or children in the family.

"(3) The Secretary may by regulation establish ranges of incomes within which a single amount of family assistance benefit shall apply.

"Overpayments and Underpayments

"(b) Whenever the Secretary finds that more or less than the correct amount of family assistance benefits has been paid with respect to any family, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to the family or by recovery from or payment to any one or more of the individuals who are or were members thereof, unless such adjustment or recovery (in the case of an overpayment) would defeat the purposes of this part, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this part.

"Hearings and Review

"(c)(1) The Secretary shall provide reasonable notice and opportunity for a fair hearing to any individual who is or claims to be a member of a family and is in disagreement with any determination under this part with respect to eligibility of the family for family assistance benefits, the number of members of the family, or the amount of the benefits, if such individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is received. Until a determination is made on the basis of such hearing or upon disposition of the matter through default, withdrawal of the request by the individual or revision of the initial determination by the Secretary, any amounts which are payable (or would be payable but for the matter in disagreement) to any individual who has been determined to be a member of such family shall continue to be paid; but any amounts so paid for periods

prior to such determination or disposition shall be considered overpayments to the extent they would not have been paid had such determination or disposition occurred at the same time as the Secretary's initial determination on the matter in disagreement if there would have been no matter in disagreement but for the fraudulent statements or willful misstatements of such individual or any other person who has been determined to be a member of a family. For purposes of hearings under this subsection, the Administrative Procedure Act shall not apply.

"(2) Determination on the basis of such hearing shall be made within ninety days after the individual requests the hearing as provided in paragraph (1) or within thirty days following the final day of the hearing, whichever is sooner.

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determinations under section 205.

"Procedures; Prohibition of Assignments

"(d) The provisions of sections 206(a) (other than the penultimate sentence thereof) and 207 and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title III.

"Applications and Furnishings of Information by Families

"(e) (1) The Secretary shall prescribe regulations applicable to families or members thereof with respect to the filing of applications, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary to determine eligibility for and amount of family assistance benefits.

"(2) In order to encourage prompt reporting of events and changes in circumstances relevant to eligibility for or amount of family assistance benefits, and more accurate estimates of expected income or expenses by members of families for purposes of such eligibility and amount of benefits, the Secretary shall prescribe the cases in which and the extent to which—

"(A) failure to so report or delay in so reporting, or

"(B) inaccuracy of information which is furnished by the members and on which the estimates of income or expenses for such purposes are based,

will result in treatment as overpayments of all or any portion of payments of such benefits for the period involved.

"Furnishing of Information by Other Agencies

"(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of family assistance benefits, or verifying other information with respect thereto.

"Application for Other Benefits or Payments

"(g) For purposes of determining the amount of family assistance benefits to which a family is entitled, the Secretary shall not consider as a member of the family any individual who refuses to take all steps necessary (excluding acceptance of any employment which would not be determined to be suitable for such individual under section 448(b)) to apply for and (if eligible) obtain unemployment benefits, old-age, survivors, and disability insurance, or any other payments of the type enumerated in section 443(a)(2)(A) for which the Secretary determines it is likely that such applicant or family or family member may be eligible.

"REGISTRATION AND REFERRAL OF FAMILY MEMBERS FOR MANPOWER OR REHABILITATION SERVICES, TRAINING, AND EMPLOYMENT

"SEC. 447. (a) Every individual who is a member of a family which is found to be eligible for family assistance benefits, other than a member to whom the Secretary finds paragraph (1), (2), (3), (4), or (5) of subsection (b) applies, shall register for manpower services, training, and employment with the local public employment office of the State as provided by regulations of the Secretary of Labor. If and for so long as any such individual is found by the Secretary of Health, Education, and Welfare, after reasonable notice and opportunity for hearing (which shall be held in the same manner and subject to the same conditions as a hearing under section 446(c) (1) and (2)), to have failed to so register, he shall be regarded as a member of a family but no family assistance benefits shall be payable to such family with respect to such member. In the case of such a finding such member, or, if there are two or more such members of a family to whom such a finding is applicable at the same time, the first and second members of such family with respect to whom it is so applicable, shall be treated as, respectively, the first member and first and second members of such family for purposes of section 442(b). No part of the family assistance benefits of any such family may be paid to such individual during the period for which the second sentence of this subsection is applicable to him; and the Secretary may, if he deems it appropriate, provide for payment of such benefits during such period to any person, other than a member of such family, who is interested in or concerned with the welfare of the family.

"(b) An individual shall not be required to register pursuant to subsection (a) if the Secretary determines that such individual is—

"(1) unable to engage in work or training by reason of illness, incapacity, or advanced age;

"(2) a mother or other relative of a child under the age of six who is caring for such child;

"(3) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by paragraph (1), (2), (4), or (5) of this subsection (unless the second sentence of subsection (a), or section 448(a) is applicable to him);

"(4) a child who is under the age of sixteen or meets the requirements of section 445(b)(2); or

"(5) one whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household. An individual who would, but for the preceding sentence, be required to register pursuant to subsection (a), may, if he wishes register as provided in such subsection.

"(c) The Secretary shall make provision for the furnishing of child care services in such cases and for so long as he deems appropriate in the case of (1) individuals registered pursuant to subsection (a) who are, pursuant to such registration, participating in manpower services, training, or employment, and (2) individuals referred pursuant to subsection (d) who are, pursuant to such referral, participating in vocational rehabilitation.

"(d) In the case of any member of a family receiving family assistance benefits who is not required to register pursuant to subsection (a) because of such member's incapacity, the Secretary shall make provision for referral of such member to the appropriate State agency administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and for a review of such member's incapacity and his need for and utilization of the rehabilitation services made available to him under such plan as frequently as may be appropriate, as determined by the Secretary taking into consideration the nature of the individual's incapacity and the likelihood of a change in his condition. If and for so long as such member is found by the Secretary, after reasonable notice and opportunity for hearing (which shall be held in the same manner and subject to the same conditions as a hearing under section 446(c)(1) and (2)), to have refused without good cause to accept rehabilitation services available to him under such plan, he shall be treated as an individual to whom subsection (a) is applicable by reason of refusal to register for manpower services, training, and employment.

"DENIAL OF BENEFITS IN CASE OF REFUSAL OF MANPOWER OR REHABILITATION SERVICES, TRAINING, OR EMPLOYMENT

"SEC. 448. (a) For purposes of determining eligibility for and amounts of family assistance benefits under this part, an individual who has registered as required under section 447(a) shall be treated as an individual to whom section 447(a) applies by reason of refusal to register for manpower services, training, and employment, if and for so long as he has been found by the Secretary of Labor, after reasonable notice and opportunity for hearing (which shall be held in the same manner and subject to the same conditions as a hearing under section 446(c) (1) and (2)), to have refused without good cause to participate or continue to participate in suitable manpower services, training, or employment, or to have refused without good cause to accept suitable employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the Secretary of Labor, after notification by such employer or otherwise, to be a bona fide offer of employment.

"(b)(1) In determining whether any employment is suitable for an individual for purposes of subsection (a) and part C, the Secretary of Labor shall consider the degree of risk to such individual's health and safety, his physical fitness for the work, his prior training and experience, his prior earnings, the length of his unemployment, his realistic prospects for obtaining work based on his potential and the availability of training opportunities, and the distance of the available work from his residence.

"(2) In no event shall any employment be considered suitable for an individual—

"(A) if the position offered is vacant due directly to a strike, lockout, or other labor dispute;

"(B) if the wages, hours, or other terms or conditions of the work offered are contrary to or less than those prescribed by Federal, State, or local law or are substantially less favorable to the individual than those prevailing for similar work in the locality, or if the wages for the work offered are at an hourly rate of less $1.20; or

"(C) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

"(c) No family shall be denied benefits under this part, or have its benefits under this part reduced, because an individual who is a member of such family refuses work, if such individual is the mother, or other relative of a child (which child is a member of the family) who is caring for such child, unless child care provided pursuant to section 436, or child care of the same type and reasonably equivalent cost (as determined in accordance with criteria of the Secretary), is available for such child.

"TRANSFER OF FUNDS FOR ON-THE-JOB TRAINING PROGRAMS

"SEC. 449. The Secretary shall, pursuant to and to the extent provided by agreement with the Secretary of Labor, pay to the Secretary of Labor amounts which the Secretary of Health, Education, and Welfare estimates

would be paid as family assistance benefits under this part to individuals participating in public or private employer compensated on-the-job training under a program of the Secretary of Labor if they were not participating in such training. Such amounts shall be available to pay the costs of such programs.

"PART E—STATE SUPPLEMENTATION OF FAMILY ASSISTANCE BENEFITS

"PAYMENT UNDER TITLES IV, V, XVI, AND XIX, CONDITIONED ON SUPPLEMENTATION

"SEC. 451. In order for a State to be eligible for payments pursuant to title V, XVI, or XIX, or part A or B of this title, with respect to expenditures for any quarter beginning on or after the date this part becomes effective with respect to such State, it must have in effect an agreement with the Secretary under which it will (1) make supplementary payments, as provided in this part and part F, to any family residing in the State other than a family in which both parents of the child or children are present, neither parent is incapacitated, and the male parent is not unemployed.

"ELIGIBILITY FOR AMOUNT OF SUPPLEMENTARY PAYMENTS

"SEC. 452. (a) The amount payable under the agreement with any State under this part to any family described in section 451 shall, subject to the succeeding provisions of this section, be no less than the difference between—

"(1) the payment level in such State, and

"(2) the family assistance benefits payable under part D without regard to any reduction in such benefits required by section 447 or 448 plus any other income (earned or unearned) not excluded under section 443 (b) (except paragraph (4) thereof) or under subsection (b) of this section.

The payment level in each State for any family shall be determined by the Secretary after consultation with such State. The payment level so determined shall be so designed that as nearly as practicable, payments under the agreement (when added to benefits payable under part D) to families with no other income will be equal to the maximum payment (exclusive of amounts designed to meet shelter needs) which families of the same size (and which were eligible for no additional payments to meet extraordinary needs, determined in accordance with criteria prescribed by the Secretary) would have received for November 1970 under the plan of such State: (i) which is in effect for such month (or in effect for January 1971 if the State has adopted prior to November 1, 1970, a change in the amount of such payments effective after November 1970) and (ii) which complies with the requirements for approval under part A as in effect for such month plus a uniform amount to meet shelter needs (adjusted as may be necessary to reflect differences in shelter costs between different areas of the State); except that this section shall not be construed to require a State to make payments with respect to that amount by which its payment level exceeds the poverty level (as defined in section 543(c)) applicable to such family.

"(b) For purposes of an agreement under this part—

"(1) the provisions of, and the rules and regulations under, sections 442(a)(2), and (d), 443(a), 444, 445, 446 (to the extent the Secretary deems appropriate), 447, and 448 shall be applied,

"(2) in the case of earned income to which paragraph (4) of section 443(b) applies, there shall be disregarded $720 per year (or proportionately smaller amounts for shorter periods), plus one-third of the remainder, and,

"(3) in the case of any State the plan of which, as in effect in December 1970, complies with the standards for approval under part A as then in effect and provides for meeting less than 100 per centum of its standard of need or provides for considering less than 100 per centum of requirements in determining need, there shall be disregarded, with respect to any family, an additional amount of income (whether earned or unearned) equal to the amount which (A) is in excess of the income which would have been disregarded pursuant to section 402(a)(8) as then in effect and (B) could have been received by a family of the same size whose needs were being met in such month under such plan without a resultant reduction in the assistance payment under such plan.

For special provisions applicable to Puerto Rico, the Virgin Islands, and Guam, see section 1108(e).

"(c) The agreement with a State under this part shall—

"(1) provide that it shall be in effect in all political subdivisions of the State;

"(2) provide for the establishment or designation of a single State agency to carry out or supervise the carrying out of the agreement in the State;

"(3) provide for granting an opportunity for a fair hearing before the State agency carrying out the agreement to any individual whose claim for supplementary payments is denied or is not acted upon with reasonable promptness;

"(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the agreement in the State, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full- or part-time employment of recipients of supplementary payments and other persons of low income, as community services aides, in carrying out the agreement and for the use of nonpaid or partially paid volunteers;

"(5) provide that the State agency carrying out the agreement will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(6) provide safeguards which restrict the use or disclosure of information concerning applicants for and recipients of supplementary payments to purposes directly connected with the administration of this title;

"(7) provide that all individuals wishing to make application for supplementary payments shall have opportunity to do so, and that supplementary payments shall be furnished with reasonable promptness to all eligible individuals;

"(8) provide that no lien will be imposed against the property of any member of a family or his estate on account of payments made under the agreement (except pursuant to the judgment of a court on account of payments incorrectly made to such family), and that there will be no adjustment or any recovery of payments correctly made under the agreement; and

"(9) provide—

"(A) (i) for the development and implementation of a program under which the State will attempt—

"(I) in the case of a child born out of wedlock who is receiving assistance to needy families with children, or payments under the agreement, to establish the paternity of such child and secure support for him,

"(II) in the case of any child receiving such assistance or payments who has been deserted or abandoned by his parent, to secure support for such child from such parent (or from any other person legally liable for such support), utilizing reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and

"(III) in the case of any parent (of a child referred to in clause (II)) receiving such assistance or payments who has been deserted or abandoned by his or her spouse, to secure support for such parent from such spouse (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support and

"(ii) for the establishment of a single organizational unit in the State agency or local agency carrying out the agreement in each political subdivision which will be responsible for the administration of the program referred to in clause (i);

"(B) for entering into cooperative arrangements with appropriate courts and law enforcement officials (i) to assist in administering the program referred to in clause (A)(i), including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (ii) with respect to any other matters of common concern to such courts or officials and the State agency or local agency administering such program;

"(C) that the State will report to the Secretary, at such times (not less often than once each calendar quarter) and in such manner as the Secretary may prescribe—

"(i) the name, and social security account number, if unknown, of each parent of a child referred to in clause (A)(i)—

"(I) against whom an order for the support and maintenance of such child has been issued by a court of competent jurisdiction but who is not making payments in compliance or partial compliance with such order, or against whom a petition for such an order has been filed in a court having jurisdiction to receive such petition, and

"(II) whom it has been unable to locate after requesting and utilizing information included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205,

"(ii) the last known address of such parent and any information it has with respect to the date on which such parent could last be located at such address, and

"(iii) such other information as the Secretary may specify to assist in carrying out the provisions of section 407;

"(D) that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State carrying out an agreement under this part—

"(i) in locating a parent residing in such State (whether or not permanently) against whom a petition has been filed in a court of competent jurisdiction of such other State for the support and maintenance of his child receiving assistance to needy families with children or payments under the agreement of such other State, and

"(ii) in securing compliance or good faith partial compliance by a parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of such child;

"(10) provide for arrangements to assure that there will be made a non-Federal contribution to meet the cost of manpower services, training, and employment and opportunities provided for individuals registered pursuant to section 447, in cash or kind, equal to 10 per centum of such cost; and

"(11) provide, in the case of any individuals who are members of a family receiving supplementary payments and who refuse—

"(A) to register as required under section 447(a),

"(B) to accept vocational rehabilitation services as required under section 447(d), or

"(C) without good cause, to participate or

continue to participate in manpower services, training, or employment, as required under section 448(a), or to accept suitable employment as described in such section,

that such supplementary payments will be reduced by an amount which bear the same ratio to such payments as the number of such individuals bears to the total number of members in the family.

"PAYMENTS TO STATES

"SEC. 453. (a)(1) The Secretary shall pay to any State which has in effect an agreement under this part, for each fiscal year, an amount equal to 30 per centum of the total amount expended during such year pursuant to its agreement as supplementary payments to families not counting so much of the supplementary payment made to any family as exceeds the amount by which (with respect to the period involved)—

"(A) the family assistance benefit payable to such family under part D, plus any income of such family (earned or unearned) not disregarded in determining the amount of such supplementary payment, is less than

"(B) the applicable poverty level as promulgated and in effect under subsection (c).

"(2) The Secretary shall also pay to each such State an amount equal to—

"(A) the cost of carrying out the requirements of section 452(c)(9), plus

"(B) 50 per centum of its other administrative costs found necessary by the Secretary for carrying out its agreement.

"(b) Payments under subsection (a) shall be made at such time or times, in advance or by way of reimbursement, and in such installments as the Secretary may determine; and shall be made on such conditions as may be necessary to assure the carrying out of the purposes of this title.

"(c)(1) For purposes of this part, the 'poverty level' for a family group of any given size shall be the amount shown for a family group of such size in the following table, adjusted as provided in paragraph (2):

"Family size:	*Basic amount*
One	$1,920
Two	2,520
Three	3,120
Four	3,720
Five	4,270
Six	4,820
Seven	5,320
Eight	5,820
Nine	6,270
Ten	6,720
Eleven or more	7,170

"(2) As soon after enactment of the Family Assistance Act as may be feasible, and thereafter between July 1 and September 30 of each year, the Secretary (A) shall adjust the amount shown for each size of family group in the table in paragraph (1) by increasing such amount by the percentage by which the average level of the price index for the months in the most recent preceding calendar year exceeds the average level of the price index for months in calendar year 1969, and (B) shall thereupon promulgate the amounts so adjusted as the poverty level for family groups of various sizes which shall be conclusive for purposes of this part for the fiscal year beginning July 1 next succeeding such promulgation.

"(3) As used in this subsection, the term 'price index' means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

"FAILURE BY STATE TO COMPLY WITH AGREEMENT

"SEC. 454. If the Secretary, after reasonable notice and opportunity for hearing to a State with which he has an agreement under this part, finds that such State is failing to comply therewith or with any requirement imposed by or pursuant to this part, he shall withhold all, or such portion as he deems appropriate, of the payments to which such State is otherwise entitled under this part or Part A or B of this title or under title V, XVI, or XIX, but the amounts so withheld from payments under such part A or B or under title V, XVI, or XIX, shall be deemed to have been paid to the State under such part of title. Such withholding shall be affected at such time or times and in such installments as the Secretary may deem appropriate.

"SEC. 455. As used in this part, the term 'needy families with children' means families who are receiving family assistance benefits under part D and who (1) are receiving supplementary payments under this part, or (2) would be eligible to receive, under a State plan (approved under part A) as in effect prior to the enactment of part D, aid to families with dependent children as defined in section 406 as it was in effect prior to such enactment, if the State plan had continued in effect; and 'assistance to needy families with children' means family assistance benefits under such part D, paid to such families.

"PART F—ADMINISTRATION

"Agreements With States

"SEC. 461. (a) The Secretary may enter into an agreement with any State under which the Secretary will make, on behalf of the State, the supplementary payments provided for under part E, or will perform such other functions of the State in connection with such payments as may be agreed upon, or both. In any such case, the agreement shall also (1) provide for payment by the State to the Secretary of an amount equal to the supplementary payments made by the Secretary under such agreement, less any payments which would otherwise be made to the State under section 453(a), (2) at the request of the State, provide for joint audit of payments under the agreement, and (3) in the case of an agreement which will become effective at a future date, but not later than two years after the date as of which part D becomes effective for such State, provide for payments of the State's administrative costs found necessary by the Secretary for making supplementary payments pursuant to part E during the period after the execution of the agreement under this section and before its effective date, except that if the State takes any action which prevents such agreement from becoming effective at the end of such two years, the Secretary shall recover (by adjustment of any other amounts due the State under this Act, or otherwise) an amount equal to one-half the administrative costs paid pursuant to this clause (3).

"(b) The Secretary may enter into an agreement with a State under which the Secretary will determine eligibility for medical assistance under such State's plan approved under title XIX, or for surplus food commodities under such State's program conducted pursuant to section 416 of the Act of October 31, 1949 (7 U.S.C. 1431) or administer all or part of such State's food stamp program conducted pursuant to the Food Stamp Act of 1964 (7 U.S.C. 2011, et seq.), with respect to (1) individuals eligible under such State's plan approved under title XVI for aid to the aged, blind, and disabled (and individuals who would be eligible for such aid but for the income and resources requirements of title XVI), but only if the State has entered into an agreement with the Secretary pursuant to section 1605, and (2) all individuals other than those described in clause (1), but only if, in the case of any State required to make supplementary payments pursuant to section 452, the Secretary is carrying out an agreement with such State pursuant to subsection (a) of this section. In any such case, the agreement shall also provide for payment by the State to the Secretary of an amount equal to one-half of the cost of determining eligibility for medical assistance plus the cost of detremining eligibility for surplus food commodities and of administering the food stamp programs, but in computing such costs the Secretary shall include only those costs which are additional to the costs incurred in carrying out part D or in carrying out an agreement under subsection (a) or section 1605.

"(c) In the case of any State which has an agreement with the Secretary under subsection (a) (if the State is required to make supplementary payments pursuant to section 452), under subsection (b) with respect to medical assistance, and under section 1605, the Secretary may further agree to administer all or any part of any other program of such State under which cash benefits are provided on the basis of need, but only to the extent that he determines, with respect to any such program or part thereof which the State seeks to include in the agreement, that administration by him is feasible and will not result in undue administrative burden. In any such case the agreement shall provide for payment by the State to the Secretary of an amount equal to the cash benefits paid by the Secretary, plus the costs of administering any such program or part thereof included in the agreement, but in computing such administrative costs the limitations applicable to computation of administrative costs under subsection (b) shall apply.

"(d) In the case of an agreement, plan, or program, or any portion thereof, which the Secretary administers on behalf of a State under an agreement pursuant to subsection (a) or (b) of this section or pursuant to section 1605, the Secretary may waive any procedural requirements or methods of administration imposed by or pursuant to this or any other Federal statute and substitute the requirements or methods applicable to the administration of part D which serve the same purpose or relate to the same or comparable matters.

"(e) In the case of any State which has entered into—

"(1) an agreement under subsection (a) for the administration by the Secretary of supplementary payments under the State's agreement pursuant to part E, or

"(2) an agreement under section 1605 for payment of aid to the aged, blind, and disabled,

the State must maintain such agreement in effect in order to remain eligible for payments under part E of this title or title XVI, respectively, with respect to expenditures for any quarter beginning on or after the date such agreement under subsection (a) or section 1605 becomes effective.

"(f) The Secretary may also enter into an agreement with any State under which such State will make, on behalf of the Secretary, the family assistance benefit payments provided for under part D with respect to all or specified families in the State who are eligible for such benefits or will perform such other functions in connection with the administration of part D as may be agreed upon, or both, except that (1) the Secretary may not enter into any agreement under this subsection which would remain in effect for any period after January 1, 1974, under which any State would determine the eligibility of or make family assistance benefits payments to any family other than a family in which one parent of the child or children is dead, continuously absent from the home, or incapacited, and (2) the Secretary may not enter into an agreement under this subsection with any State if, under the State plan of such State, approved under part A and as in effect for January 1970, the total of the payments for such month as aid under such plan with respect to three dependent

children and one relative with whom they were living, all of whom have no other income, would be less than $133.34. The cost of carrying out any such agreement shall be paid to the State by the Secretary in advance or by way of reimbursement and in such installments as may be agreed upon.

"(g) (1) Whenever, in accordance with this Act, the Secretary has agreed to make the supplementary payments provided for under part E to pay aid to the aged, blind, and disabled under the State's plan approved under title XVI, or to perform any other functions, on behalf of a State, it shall be a condition of such agreement that, notwithstanding any other provision of law, except provisions pertaining to retirement, insurance, health benefits, and length of workweek, arrangements are made, which are found by the Civil Service Commission to be fair and equitable, to provide or continue to provide employment to employees of the State or its political subdivisions whose employment is affected. The terms and conditions of such employment arrangements shall be specified in the agreement.

CLOSED SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent to dispense with the reading of the amendment which, I understand, is about one quarter through.

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

Mr. MANSFIELD. Mr. President, I move that the Senate go into closed session.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator will yield, after we come back, we will resume the reading of the amendment; is that correct?

Mr. HANSEN. Yes.

Mr. MANSFIELD. If the Senate so desires.

Mr. WILLIAMS of Delaware. Yes, I think we should.

The PRESIDING OFFICER. The Chair would inquire, what was the question?

Mr. MANSFIELD. Mr. President, that was just an observation.

Mr. WILLIAMS of Delaware. Mr. President, I suggested to the majority leader that we resume the reading of the amendment after the closed session has concluded.

Mr. MANSFIELD. And my reply was, if the Senate so desires.

Mr. President, I move that the Senate go into closed session and that the usual aides on both sides of the aisle, the normal attachés who have been attending, be allowed to attend as in the past.

The PRESIDING OFFICER. Is there a second?

Mr. SCOTT. Mr. President, I second the motion.

The PRESIDING OFFICER (Mr. CRANSTON). The motion having been made and seconded that the Senate go into closed session, the Chair, pursuant to rule XXXVI, now directs the Sergeant at Arms to close the galleries and to close all the doors of the Senate.

(At 5:02 p.m., the doors of the Chamber were closed.)

LEGISLATIVE SESSION

At 6:34 p.m. the doors of the Chamber were opened, and the open session of the Senate was resumed.

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 amendment of the House to the bill (S. 1) to provide for uniform and equitable treatment of persons displaced from their homes, businesses, or farms by Federal and federally assisted programs and to establish uniform and equitable land acquisition policies for Federal and federally assisted programs.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 17255) to amend the Clean Air Act to provide for a more effective program to improve the quality of the Nation's air.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19504) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the 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.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 18582) to amend the Food Stamp Act of 1964, as amended; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. MCMILLAN, Mr. ABERNETHY, Mr. ABBITT, Mr. BELCHER, Mr. TEAGUE of California, and Mr. WAMPLER were appointed managers on the part of the House at the conference.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 19401) to extend for 1 additional year the authorization for programs under the Vocational Rehabilitation Act.

SOCIAL SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

Mr. RIBICOFF. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER (Mr. HUGHES). The Senator has a right to modify his amendment.

The modification is as follows:

On page 101, line 2, strike out the period and insert in lieu thereof "; and" and between lines 2 and 3 insert the following paragraph:

"(3) with respect to aid furnished under the plan for any month—

"(A) the total of the amounts used to determine the needs of an applicant for or recipient of aid shall be at least $10 higher than the total thereof which would have been used to determine his needs under the State plan as in effect for March 1971, or

"(B) in the case of two or more such individuals who are, as determined in accordance with regulations of the Secretary, members of the same household, the sum of such totals used for the month for which the determination is being made shall exceed the sum of such totals for March 1971 by $10 plus $5 for such individual in excess of one,

except that, in the case of any State the plan of which provides for meeting less than 100 per centum of its standard of need or provides for considering less than 100 per centum of requirements in determining need, such plan shall provide such methods as the Secretary may by regulation prescribe for achieving as nearly as possible the results provided for under the preceding provisions of this paragraph.

For purposes of paragraph (3), the 'State plan as in effect for March 1971' means the State plan (approved under this title) as in effect for March 1971 or, if there was no such plan in effect for such State for such month—

"(i) the State plan which was in effect for such month and was approved under title I, in the case of any individual who is sixty-five years of age or older,

"(ii) the State plan in effect for such month and approved under title X, in the case of an individual who is blind, or

"(iii) the State plan in effect for such month and approved under title XIV, in the case of an individual who is severely disabled,

except that if two or more of clauses (i), (ii), and (iii) are applicable with respect to an individual, it shall be the State plan under which the total is the higher (or highest), and except that if none of such clauses is applicable to an individual, it shall be the one of the State plans approved under titles I, X, and XIV which were in effect for such month, under which the total which would have been applicable to him is the higher (or highest)."

Mr. RIBICOFF. Mr. President, welfare reform is the most urgent domestic legislation——

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. RIBICOFF. For a question?

Mr. WILLIAMS of Delaware. No; to get the yeas and nays on the modification.

Mr. RIBICOFF. No, I will not yield to have the yeas and nays on the modification ordered, because it was discussed here during the meeting that there may be other Senators here——

Mr. WILLIAMS of Delaware. If not on that amendment can we get the yeas and nays on the amendment of the Senator from Pennsylvania?

Mr. RIBICOFF. No; I would object to that. I have the floor.

Several Senators addressed the Chair.

Mr. KENNEDY. Mr. President, regular order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. RIBICOFF. Mr. President, welfare reform is the most urgent domestic legislation now before Congress.

Men of all persuasions agree that our welfare programs have become a national tragedy. Uncontrollable costs, weak or nonexistent incentives to work and maintain the family structure, and categories which exclude up to one half of our poor, all contribute to the disastrous system now in operation.

The hour is late and it is imperative that the Senate consider this proposal on its merits before adjournment. We will fail our public trust if we allow the present system to be perpetuated any longer.

Therefore, Senator BENNETT and I today are proposing an amendment to the existing welfare system. Our proposal includes the major provisions of the administration's family assistance plan, first proposed 16 months ago and under careful consideration by Congress for almost a year.

Many believe this legislation goes too far; others argue that it does not go far enough. In my own mind, this amendment does not contain everything I believe is ultimately required in our welfare program. But, if this is not a perfect program, it is a necessary program.

Passage of the amendment Senator BENNETT and I propose would be the most important step in three decades toward developing a more workable, more efficient, and more humane public assistance system in the United States.

Under this proposal, fourteen and a half million Americans will be eligible for more assistance than under present law. Two million people will be helped out of poverty. For the first time, every family with a child will be assured a minimum income. Uniform national standards and eligibility criteria will simplify administration and equalize opportunity throughout the country.

Let us be clear about the nature of this amendment. It will not reduce Federal costs or the number of eligible recipients. Family assistance will cost an additional $4.3 billion in the first year of operation. These costs include $600 million for increased day care centers and work training programs, as well as almost $1 billion for the aged, blind, and disabled.

The needs of the poor, the disabled, the blind, and the elderly will not permit us to do less. This country must realize that we cannot save money by wasting lives.

THE PRESENT WELFARE SYSTEM

Welfare in the United States today is a failure.

Assistance payments are insufficient to meet minimal needs. Family and work incentives are lacking. Eligibility is based on arbitrary categories rather than need. While Congress has established a legal right to assistance, it has provided a system which frustrates the exercise of these rights and demeans those who do exercise them.

Under present law, fully half of all poor people, including two out of every three poor children, do not receive any aid.

The aid to families with dependent children program—the largest assistance program—is in reality 54 different programs in 54 different jurisdictions throughout the United States.

No national standards exist for either benefits or eligibility. Payments vary from an average of $46 per month for a family of four in Mississippi to $265 for such a family in New Jersey. This disparity is further aggravated by complicated State variations in criteria for eligibility and methods of administration. Each State has developed its own prescription for need standards, assets tests, incapacity tests, and requirements for school attendance and the age of children who can receive benefits. In addition, the administration of the program has varied widely from State to State and locality to locality in terms of equity and responsiveness to the needs of recipients.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from Connecticut yield at an appropriate time?

Mr. RIBICOFF. I am pleased to yield now to the Senator from Michigan, without relinquishing my right to the floor.

Mr. GRIFFIN. I wonder if there is a possibility of getting the yeas and nays on the Senator's amendment, when he has modified it to the extent that he desires, because if that is possible, then we can tell a lot of Senators they can go home. Otherwise, I have been served with notice that there may be a live quorum later in the evening, and I do not know whether to warn Senators or not.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator will yield——

Mr. RIBICOFF. Mr. President, I have the floor. I will answer the question of the assistant minority leader, and then I shall be pleased to yield to the distinguished Senator from Delaware.

Mr. WILLIAMS of Delaware. I would like to have the yeas and nays ordered on both the Scott amendment and the Ribicoff amendment. Then Senators will know that this matter cannot go through on a voice vote but that there will be a rollcall vote.

The Senator has a chance to modify his amendment, and I did not object to that. He has another modification at the desk, and I have no objection to that. But since he has modified it I would like to ask for the yeas and nays on the two amendments tonight.

The PRESIDING OFFICER (Mr. HUGHES). The Chair will instruct the Senator that he cannot request the yeas and nays on the Scott amendment without unanimous consent.

Mr. WILLIAMS of Delaware. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Delaware so that he may request unanimous consent that it be in order to ask for the yeas and nays on the Scott amendment?

Mr. RIBICOFF. I personally have no objection. I just want to make my position clear while the majority leader is here. I personally am satisfied with the Ribicoff-Bennett amendment as it stands. The majority and minority leaders asked us to try to work out as many as possible of the controversies. One of the controversies, of course, is that there are certain Senators who would like to amend the Ribicoff-Bennett amendment, and under the parliamentary situation this cannot be done. I happen to think it is a good, acceptable amendment as it is, and the only reason that I objected to it was out of consideration for other Senators.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield? I appreciate the Senator's position, but under the position that we are put in from a parliamentary standpoint and under the rules of the Senate it is not subject to an amendment.

That could mean that 99 Members of the Senate agreeing on an amendment could not get the amendment adopted unless the Senator from Connecticut approved. He is the only man out of the 100 who would have the right to amend this pending amendment. He could listen to the debate and amend it to his own satisfaction, but not the satisfaction of all others.

Mr. President, I do not wish to proceed with that power in the hands of any one Senator or in any one place. I tried hard to get this situation to where we could have the right to amend; but having failed I just want us to vote it up or down, and then we can offer amendments. Therefore, I would ask the Senator's permission to ask for the yeas and nays.

Mr. GOODELL. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Connecticut has the floor. The Senate will be in order. Objection is heard to the request of the Senator from Delaware, and the Senator from Connecticut has the floor.

Mr. WILLIAMS of Delaware. It does not require unanimous consent, Mr. President.

Mr. MANSFIELD. Mr. President, will the Senator from New York withhold his objection briefly?

Mr. GOODELL. I withhold my objection.

Several Senators addressed the Chair.

Mr. SCOTT. Mr. President, will the Senator from Connecticut yield without yielding his right to the floor, so that I may explain my position?

Mr. RIBICOFF. Yes.

Mr. SCOTT. My position is that I have no objection, personally, to the yeas and nays on the Scott amendment, because, having introduced it in the form it is, I have not been advised of the desire to modify it. Some Senators may be for it and some against it, but no one has asked to modify it, and under those circumstances, if it will expedite the proceedings, I have no objection to the yeas and nays.

Mr. SAXBE. Mr. President, I object to the Senator yielding for that purpose.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAMS of Delaware. That request will be made again later tonight.

Mr. RIBICOFF. The administrative inefficiencies and redtape associated with welfare programs are notorious. Individual States and localities must develop budgets of need with required close investigation of the economic status of each family. However, these standards are often unrelated to actual State payments and complicated formula, using ratable reductions and maximum payments, are necessary to calculate the final benefits payable to each eligible family. Tiny, but complex adjustments are made to reflect changes in the composition of the family, the ages of its members, its changing economic status, or as special emergencies occur. The resulting paperwork overwhelms the administrative structure. The organization is fraught with error and is largely incomprehensible to recipients and the public alike.

The major defect of AFDC however, which makes it impossible to reform by simply adding national standards or greater administrative efficiencies, is its categorical restriction of eligibility. AFDC does not provide assistance to those families headed by a full-time working man.

The assumption on which AFDC rests—that the income of full-time workers is by definition adequate—is simply not valid for large numbers of families. In 1968, 39 percent of the poor families with children in this country were headed by full-time workers. Their poverty is seldom the result of a defect of character or a failure to try. It is rather the result of the inescapable fact that large numbers of jobs, for a variety of economic reasons, just do not pay an adequate wage—especially for persons with large families.

As a result of this inadequate and inefficient system, welfare has become a costly shambles. Costs and caseloads under AFDC increased by almost 30 percent from June 1969 to June 1970.

The lack of incentives to work and maintain the family structure have meant that the number of children in families with female heads only under AFDC have more than doubled in 10 years.

The facts are very clear. Welfare in the United States has already become a national disgrace.

THE FINANCE COMMITTEE AMENDMENTS

It is regrettable that in the face of such chaos a majority of the Finance Committee has chosen not to come to grips with meaningful welfare reform legislation.

I share the view of the committee that far reaching and innovative social legislation should be tested thoroughly before implementation on a nationwide basis.

But, testing alone in a time of urgent need is not enough.

In August, 1969, the President outlined reform legislation which, while not perfect, would take several significant and constructive steps toward a strong welfare system.

The House of Representatives passed legislation embodying the basic principles of the President's proposal—the family assistance plan.

After many weeks of hearings, however, the Senate Finance Committee regrettably refused to consider this plan in detail and substituted an amendment calling merely for 2 years of tests.

Clearly, passage of a 2-year test program requiring more legislation at the end of that test period means no welfare reform until 1974 or beyond. Reform is much more urgent than that.

The proposal Senator BENNETT and I intend to make provides for extensive testing in the period between enactment and the effective date of welfare reform. The most innovative proposal, to assist the working poor, would be tested in several areas for more than a year.

Extensive pretesting of this nature would provide more than adequate time to iron out the problems in organization and administration of family assistance. Furthermore, information gained from careful evaluation of existing working poor programs in six States would be readily available.

THE PRINCIPLES OF REFORM

Welfare is not a subject of interest only to the poor and the welfare worker. The measure of a whole society is taken from the adequacy, equity, and efficiency of its programs for the needy. Their progress is our progress.

The principles of adequate welfare are simple and paramount:

First, assurance to all members of society of an income adequate to meet their basic needs;

Second, incentives and opportunity for the employment of all citizens;

Third, encouragement and support of the basic family structure;

Fourth, a uniform system of national standards supported and financed by the Federal Government; and

Fifth, simple and efficient administration dedicated to assisting rather than demeaning the poor.

We are a wealthy people. As the perquisites of citizenship have increased, so too have our responsibilities to our society and our fellow man. As a nation, we can no longer tolerate a system of public assistance which fails to meet the most basic principles of humanity.

THE FAMILY ASSISTANCE PLAN

The basic principles of family assistance are designed to meet the problems now plaguing welfare. By assuring a minimum payment to all families in need, it is designed to provide uniform national standards and simplified administration.

Most important, the program extends eligibility to those families who have been arbitrarily and unwisely excluded from assistance.

Family assistance will replace the 54 different State and territorial AFDC programs with a single program for families. It would also substitute a single integrated adult welfare system for the more than 150 different programs of aid to the aged, the blind and the disabled.

Americans are becoming more mobile. Poverty and welfare are national problems requiring national solutions. Foremost in any such national solution must be an effort to assure that citizens who live in differeint States do not receive grossly different treatemnt at the hands of their governments. Family assistance establishes minimum support levels: $1,600 per year—plus about $860 in food stamps—for a family of four, for citizens in all States.

Family assistance insures the provision of a minimum benefit by full Federal financing of that portion of the payment. In addition, the States, assisted by 30-percent Federal matching up to the poverty line, can then assure more adequate total benefits by supplementing the minimum payment.

Nationwide uniform eligibility rules will make possible another vital reform: simplification and streamlining of the notorious welfare paperwork and administrative morass. Family assistance terminates the present practice of basing benefits on minute investigations and computations of family budgets. Eligibility for aid would be determined on a simplified basis, which would include cross-checks of earnings data and a sampling of recipients' reports as protection for the system.

INCLUSION OF THE WORKING POOR

The most important advance proposed by this amendment is the extension of public assistance eligibility to the working poor. This innovative step is supported by several powerful arguments.

First, coverage of the working poor eliminates one of the major inequities in present laws. If we are to require recipients to work, we cannot then make them worse off financially than if they did not work.

Second, aid to the working poor promotes a consistent set of work incentives for the entire program. Recipients will always be better off by working more.

Third, coverage of the working poor is an effective means of combating poverty. Four out of ten poor Americans live in families headed by a full-time worker. Family assistance will move 2 million Americans over the poverty line.

WORK REQUIREMENT AND INCENTIVES

The Ribicoff-Bennett amendment takes a major step to increase work incentives for welfare recipients. To make these incentives increasingly effective there is included a major manpower training and child care program with over $600 million in additional funding; $150 million is required to be spent on a strong program of public service employment.

Recipients under family assistance will be required to register for and accept jobs or work training in order to receive FAP benefits. Benefit levels will be decreased by $500 per famly for a failure to register.

THE REVISED FAMILY ASSISTANCE PLAN

The latest administration revision of family assistance was submitted in October to the Senate Finance Committee. While this was a strong program—there were a number of changes which I felt were necessary to improve the legislation before it was presented to the full Senate.

I made these suggestions both in a formal letter to the Secretary of Health, Education, and Welfare and in informal conversations. Most of these improvements are contained in the Ribicoff-Bennett amendment.

A NATIONAL GOAL

Today, one in every eight Americans is poor. In the wealthiest nation in history, our poor outnumber the total population of Canada. More than a third of our poor are children. Many of the rest are ill, disabled or elderly.

These people are tragic evidence of our neglect, and lack of commitment to end poverty.

Our growing national affluence has not been fully shared. In a future which promises greater riches, for many, but continued poverty for some, we have, in the words of the President's Commission on Income Maintenance Programs, "the potential for social division unparalleled in our country."

Our failure has been a failure of commitment rather than resources. We have the means to end poverty. Let us resolve to do so.

As a beginning step, Congress must establish a national goal to end poverty in this decade.

UNEMPLOYED PARENT PROGRAM

As passed by the House of Representatives, H.R. 16311 provided for mandatory State supplementation—with Federal sharing—of families headed by an unemployed father—AFDC–UP. Under present law, this is an optional program which exists in 23 States.

In the administration revisions of H.R. 16311, this mandatory AFDC–UP has been deleted.

I strongly support inclusion of this program—as provided by the House of Representatives and the original administration proposal. Restoration of this provision would benefit some 90,000 families, or more than 300,000 poor people.

RESTORATION OF THE REQUIREMENTS IN SECTION 452 OF H.R. 16311 FOR USING "STANDARD OF NEED" FOR FAMILIES WITH INCOME

In August 1969, the President, in his welfare address to the Nation, strongly supported the principle that no recipient would be worse off under his proposal than under existing law. Unfortunately, a subsequent revision of H.R. 16311 would adversely affect families with outside income in 22 States by reducing State supplements. Restoration of the standard-of-need provision in section 452 will remedy this unwise provision.

MINIMUM WAGE LEVELS FOR WELFARE RECIPIENTS TAKING EMPLOYMENT

A universally recognized objective of welfare reform, clearly stated in the President's welfare message, is the great need to move the poor from relief rolls to payrolls. Legisation toward this laudable goal, however, must not sacrifice very basic objections to providing a ready-made pool of forced labor for employers paying substandard wages.

Substandard wages perpetuate poverty. At $1 an hour, a fully employed husband and father of two children falls almost $2,000 below the barest minimum income required for his family.

Therefore, I propose that provisions be added to this reform legislation stipulating that welfare recipients required to accept work be paid a reasonable wage, preferably the basic minimum wage of $1.60 an hour. The Ribicoff-Bennett proposal takes a major step in this direction by guaranteeing wages of at least $1.20 an hour.

ADEQUATE SAFEGUARDS FOR STATE AND LOCAL EMPLOYEES ASSIMILATED UNDER FEDERAL PROGRAMS

There must be assurances that State and local welfare employees, who would be encompassed by the new Federal program, are treated fairly with respect to their seniority, salary, and pension rights earned under their previous employers.

FEDERAL ADMINISTRATION OF FULLY FEDERALLY FINANCED WELFARE PROGRAMS

Welfare reform must reduce the major inequities and complexities that result from over 50 different welfare systems with their varied forms, requirements, and regulations. In many States today, the system is operated by three separate levels of government: Federal, State, and local. The redtape, inequities, and sheer complexities of these arrangements must be reduced.

Therefore, I propose that reform legislation include a provision for mandatory Federal administration of all welfare programs which are 100 percent funded by Federal money. This provision will be a major step toward our goal of universally applied standards for all recipients.

PUBLIC SERVICE EMPLOYMENT

The major goal of any public assistance program should be the provision of adequate employment opportunities permitting recipients to supplement and eventually replace welfare payments by earned wages.

Regrettably, the original family assistance plan presented to Congress contained not a single job opportunity.

Senator HARRIS and I have suggested an amendment establishing a strong program of public service employment. Such an amendment would complement the training provisions already suggested above by assuring a greater number of jobs at the end of the training cycle.

Therefore, I propose a public service employment program for recipients of FAP benefits or State supplementation.

Under the amendment, the Secretary of Labor would enter into grants or contracts with public or private nonprofit agencies to create jobs in a wide variety of enumerated fields of benefit to the public.

Special provisions were designed to assure that such jobs are not dead-end jobs and that they offer opportunities for career advancement. The Secretary of Labor is required to review each employment record at least once every 6 months.

The jobs provided must meet standards with regard to health, safety, and working conditions, not jeopardize existing employment, and otherwise conform to certain protections. Wages paid must at least equal the Federal minimum wage or, if higher, any applicable State or local minimum wage or the prevailing wage for such jobs in the same labor market area.

In order to encourage movement by participating individuals into regular jobs and to insure that these jobs involve the performance of useful work, provision is made for declining Federal matching over time. Ninety percent matching is provided for the first 24 months during which such employment is provided, and 80 percent thereafter.

The Secretary of Labor is obligated to expend at least $150 million annually on such public service jobs. The funds may come from appropriations pursuant to part C of title IV of the Social Security Act or from any other funds available to the Secretary of the Department of Labor under other acts.

WORK REQUIREMENTS FOR MOTHERS OF SCHOOL-AGE CHILDREN

In 1967, the Senate recognized the inherent social difficulties of forcing mothers of school-age children to accept employment. At that time, the Senate passed an amendment which exempted mothers of school-age children from required employment during the hours children are home from school.

The most cursory examination of history shows that the victims of legislation forcing mothers to work are the children of those mothers. Our own national traditions are based on the belief that the best interests of the child are best protected by its mother. The decision whether to accept employment while the child remains at home should be left solely with the mother.

While not exempting mothers of school-age children from work, the proposal of Senator BENNETT and myself will guarantee that mothers of these children will only be required to work if adequate child care facilities are available. In actual fact, the work priorities practically assure that these mothers of school-age children will not be affected by work requirements.

ADDITIONAL SAFEGUARDS FOR THE LEGAL RIGHTS OF WELFARE RECIPIENTS

The administration's family assistance legislation provided for a marked and regressive change affecting the legal rights of welfare recipients by requiring that stepfathers assume legal responsibility for their stepchildren. Most States do not impose an obligation of support on a stepfather. Generally, our federal system has left matters of domestic relations laws to the wisdom of the States. Thus, the effect of the original FAP provision was to impose a discriminatory obligiation of the stepfathers or poor families.

STATE SAVINGS AND ADULT CATEGORIES

In addition to these provisions, two other provisions of the amendment are of utmost importance.

ADULT CATEGORIES

Senator BENNETT and I propose to assure minimum payments to the aged, blind and disabled of $130 a month for an individual and $230 a month for a couple. This provision will increase payments to approximately 1.5 million recipients. For an individual old-age recipient, the amendment would increase payment levels in 31 States; for a couple, and it would increase payments in 47 States.

In addition, our amendment retains the uniform eligibility rules for all re-

cipients under the adult categories. This provision extends the simplified administration concept proposed under the family assistance plan.

The amendment would also assure an individual aged, blind or disabled person an income equal to more than 80 percent of the poverty level. For couples the minimum income would be in excess of the poverty level.

STATE FISCAL RELIEF

Almost every State in the Union is facing a financial crisis over rising welfare costs. Under the proposal of Senator BENNETT and I, each State would have the benefit of a virtual freeze on increased welfare expenditures. The freeze would be based on 90 percent of the State expenditures incurred in calendar year 1971. For the first year of operation, our program would provide over $400 million in direct State savings. In succeeding years these savings would increase in direct proportion to the expected increase in expenditures now expected under present laws. At the present time these costs are escalating by 30 percent a year.

I ask unanimous consent that the following table showing State savings be printed in the RECORD.

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

STATE SAVINGS UNDER FAMILY ASSISTANCE WITH 90-PERCENT FREEZE ON STATE EXPENDITURES

[In millions of dollars]

State	State share of money payments (OAA, AB, APTD, AFDC)		
	Calendar year 1971 current law	Expenditure required by proposed 90-percent freeze [1]	State savings [1]
Total	4,040.9	3,637.3	403.6
Alabama	32.6	29.3	3.3
Alaska	9.5	8.5	1.0
Arizona	18.6	16.7	1.9
Arkansas	15.4	13.9	1.5
California	960.2	864.2	96.0
Colorado	41.8	37.6	4.2
Connecticut	53.3	48.0	5.3
Delaware	6.8	6.1	0.7
District of Columbia	34.1	30.7	3.4
Florida	98.0	88.2	9.8
Georgia	44.4	40.0	4.4
Hawaii	17.2	15.5	1.7
Idaho	6.2	5.6	0.6
Illinois	224.5	202.1	22.4
Indiana	27.0	24.3	2.7
Iowa	43.4	39.1	4.3
Kansas	28.3	25.5	2.8
Kentucky	28.2	25.4	2.8
Louisiana	50.4	45.4	5.0
Maine	14.5	13.1	1.4
Maryland	54.6	49.1	5.5
Massachusetts	191.2	172.1	19.1
Michigan	174.1	156.7	17.4
Minnesota	61.0	54.9	6.1
Mississippi	15.4	13.9	1.5
Missouri	52.4	47.2	5.2
Montana	5.1	4.6	.5
Nebraska	12.2	11.0	1.2
Nevada	3.2	2.9	.3
New Hampshire	11.8	10.6	1.2
New Jersey	181.4	163.3	18.1
New Mexico	12.3	11.1	1.2
New York	663.5	597.1	66.4
North Carolina	33.3	30.0	3.3
North Dakota	4.4	4.0	.4
Ohio	110.4	99.4	11.0
Oklahoma	46.8	42.1	4.7
Oregon	31.7	28.5	3.2
Pennsylvania	265.1	238.6	26.5
Rhode Island	20.9	18.8	2.1
South Carolina	8.3	7.5	.8
South Dakota	5.4	4.9	.5
Tennessee	34.7	31.2	3.5
Texas	85.9	77.3	8.6
Utah	9.6	8.6	1.0
Vermont	6.4	5.8	.6
Virginia	34.6	31.1	3.5
Washington	71.4	64.3	7.1
West Virginia	16.0	14.4	1.6
Wisconsin	40.4	36.4	4.0
Wyoming	2.5	2.3	.2
Guam	.6	.5	.1
Puerto Rico	19.2	17.3	1.9
Virgin Islands	.7	.6	.1

Footnotes at end of table.

[1] These amounts would constitute estimated calendar year 1972 State expenditures under the new program, except for voluntary program liberalizations by the States between the bill's enactment and the effective date. Such liberalizations would be financed by the appropriate matching formulas for title IV, pt. E, and title XVI.

ADDITIONAL COMMITTEE AMENDMENTS

Mr. RIBICOFF. Mr. President, I also want to say a word about other committee amendments to the present welfare laws.

As I have pointed out, I believe these amendments to be entirely inadequate. Furthermore, many of them are actually detrimental to the present chaotic program. I shall briefly mention four of these amendments.

USE OF FEDERAL FUNDS TO SUPPORT THE LEGAL PROCESS

The first of the committee amendments prohibits the use of Federal funds to pay directly or indirectly the salary of any individual who participates in legal actions designed to interpret or test federal legislation.

This is a particularly unwise provision in a time when it has become of paramount importance to stress the need for settling differences within rather than without our institutions.

No Federal legislation should be immune from established and recognized judicial scrutiny. In our adversary system of justice, this scrutiny is best developed by legal actions originated by the parties in interest. Powerful corporations are fully entitled, in our system, to test laws in courts and deduct the costs of legal representation. In many cases, the only advocates for the poor are community legal services personnel who, by a conscious policy decision of Congress, are often supported by Federal funds. To deny these funds is to deny the right of effective advocacy to a large segment of our society.

American justice is based on the theory that all citizens are equal before the law. By denying effective representation in cases involving laws most directly affecting the immediate lifestyle of the poor, equality of rich and poor before the law becomes a myth.

MAN IN THE HOUSE

In addition, the committee has resurrected a provision permitting States to deny AFDC benefits to children in families where a man may be occasionally present, even though he has no legal duty to support the child.

In 1968, the Supreme Court struck down a similar "man in the house" provision on the ground that an unrelated adult in the home has no legal obligation to support the child, and, therefore, the child may be eligible for AFDC.

The committee's amendment set forth a long list of criteria by which a parental-type relationship could be established and the man be held responsible financially for the child.

In addition to the unrealistic burdens this would place on welfare administration, the provision would penalize the children for the conduct of the mother.

An unrelated man who visits a child's mother, no matter how regularly, cannot be relied upon to provide a meaningful parent-child relationship. If he does make financial contributions, these are counted in determining the family's benefits now.

RESIDENCE REQUIREMENTS

In 1969, the Court declared durational residence requirements unconstitutional because they interfere with the right to travel.

The committee has sought to reestablish residence requirements, requiring that a recipient only receive payments equal to the benefit level of the State from which he moved.

Whether this provision would correct the constitutional defect cannot be predicted, but it certainly would create inequities between residents of the same State. It would penalize new arrivals who were not previously on welfare but come to require it in the State to which they move, and would restrict the mobility of the poor who wish to seek better economic opportunity in a different State.

DEFINITION OF AN UNEMPLOYED PARENT

Present law authorizes a program, at State option to support families in which the father is unemployed. This program is now operational in 22 States. In its regulations, the Department of Health, Education, and Welfare has defined "unemployed" to mean less than 30 and in some cases 35 hours of work per week.

The committee amendment defining unemployment to mean less than 10 hours a week or 80 hours a month, is far too restrictive, and, in effect, defeats the purpose of the unemployed father program—AFDC–UP. It is hard to conceive that a man working 12 hours a week is fully employed. More to the point, it is unrealistic to expect that the wages of a few hours of work a week can adequately support a family. A more reasonable definition of employment will provide greater incentives for the partially employed to continue and improve their work skills.

Mr. President, I ask unanimous consent to have printed in the RECORD an excellent article by James Welsh on the family assistance plan which appeared in the Sunday Star and an explanation of the benefits accruing to the States under this plan.

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

[From the Washington Star, Dec. 13, 1970]

NIXON'S WELFARE REFORM PLAN IS ON LEGISLATIVE ROPES

(By James Welsh)

The Robertsons—father, mother and eight children—live in a weather beaten frame house on a farm near Rocky Mount, N.C.

By anyone's standards they are poor. They are also what the academics and the bureaucrats like to call an "intact family."

Among other things, this means that the father, James Robertson, lives at home and works to support his wife and children. It also means the family is entitled to no public assistance except for food stamps.

President Nixon's Family Assistance Plan, now facing a final showdown in the Senate, would change all that. Were the plan approved, James Robertson, beginning in 1972, would command more cash income than he has ever before seen in his life.

Robertson, a burly man in his early 40s, is a farm laborer. He lives rent free but owns none of the land on the farm where he works.

"WORKING POOR" FAMILY

During the non-growing season, from October until spring, Robertson is lucky to get three days work a week at about $8 a day wages. Then the work pace picks up, and in August and September, when the tobacco crop is ripening, Robertson is working 10-hour days, and his wife and their oldest boy, James Henry, are in the fields, too.

When the crop is sold, Robertson is due enough money to square away a year's accumulated indebtedness to his "boss man," with perhaps a few hundred dollars left over. For 1970, the family's income can be calculated at $2,688.

Under the Family Assistance Plan, the Robertsons would qualify as a "working poor" family. They would be expected to continue working but would also qualify for a large subsidy. Because of the size of the family and because of its low earnings through much of the year, that subsidy would amount to about $2,400 in cash, virtually doubling the family's income.

But the Robertsons probably will see none of that government money right now anyway. The Family Assistance Plan, alternately called the welfare-reform bill, is on the legislative ropes.

The measure has run a bizarre and tortuous course over the year, passing the House by a surprising margin only to run afoul of both conservatives and liberals in the unpredictable, stubbornly independent Senate Finance Committee.

FACES MANY OBSTACLES

After months of wrestling with it, the committee rejected the plan. It approved only a tiny test of its concepts and last week tied that test provision to a complicated bill dealing with Social Security and trade restrictions.

If the full Family Assistance Plan to pass the Senate and then a House-Senate conference committee, it must survive a parliamentary obstacle course and the temper of tired congressmen who want to go home.

Yet its champions continue to work for it. They hold to the hope that somehow it will be enacted into law this year.

It is a plan with trail-blazing promise but vast uncertainties, a proposal of such scope as to aim at new controversial ways of dealing with all of America's poor, the millions of the poor who work and growing millions who depend on welfare.

As such, it bears directly on problems as diverse as family breakup and the fiscal crisis of state and local governments. And it goes to the heart of the gut philosophical issues:

Who in our society should be required to work, and who should be exempted from work? What are the rights of the poor, and what are their responsibilities, and by how much should they share in the nation's wealth?

President Nixon has called the plan the centerpiece of his domestic strategy. On Friday he told a group of governors he may call a post-Christmas special session of Congress if it fails to pass the legislation.

The issue won't die, that's sure. If for no other reason than state and county governments, burdened by soaring welfare and medicaid costs, are screaming for the kind of fiscal relief the bill would bring, the 92nd Congress almost certainly will face the problem all over again if it isn't solved this year.

For the short term, failure of the 1970 Family Assistance Plan will bring bitter political recriminations, the White House blaming liberals, the liberals blasting the President and Congress.

TWO LARGE SEGMENTS

But if an epitaph must be written for the 1970 legislation, it might boil down to a simple, two-part proposition:

Nearly all the people who would benefit directly from the Family Assistance Plan don't know anything about it; most of the people who know all about it are scared to death of it.

To sort this out, it must be remembered that the plan deals quite differently with the two large, distinct segments of America's poverty population—those who work and now get no benefits, and those who get welfare but do no work.

Nearly all the emotionalism of the debate over the legislation centers on the welfare poor. Nearly all the tangible benefits of the plan, though, would go to the working poor.

Consider, first, the working poor, and once again James Robertson. He has heard of the Family Assistance Plan, but barely.

One day last week, waiting to purchase food stamps in the social services office of the Nash County, N.C., courthouse, he told a visitor:

"Yes, I think I did hear something on the radio about that," he said. "But I don't really know what it would do."

He had no idea it might bring him $2,400 a year. He was surprised to hear of the plan's single revolutionary premise—cash benefits going to a poor family without that family first going into a welfare category of no-work dependency.

Other people in the courthouse that afternoon, all potential recipients under the plan, were similarly ignorant or vague about the plan's provisions.

At least 5,000 low-income families live in Nash County—working intact families not now on welfare, who would average close to $1,000 apiece each year under the plan.

North Carolina is home to an estimated 119,000 working-poor families. Close to one million such families live in the South, more than half of them white. The national total is 1.8 million families, representing 10.8 million men, women and children. Under the Family Assistance Plan, these people would be eligible to share $1.3 billion in income supplements.

Seldom have so many people who stand to benefit by so much had so little awareness of it.

Mitchell Ginzberg, former welfare commissioner of New York City, now a troubleshooter for Mayor John V. Lindsay and one of a small group that has lobbied over the months for the bill, put it this way:

"Can you imagine the kind of pressure that would build up if this kind of money were available under any other program? But the poor, especially the working poor, are not an organized constituency. Nobody speaks for the working poor."

The legislation's unprecedented provision for subsidizing the working poor finds nearly all its opposition among conservatives.

CONSERVATIVE OPPOSITION

Some are attracted by the concept but are leery of the numbers involved—those 1.8 million working-poor families and billion-dollar-plus cost. Others reject the concept outright, looking on these supplements as just more welfare. Still others aren't so much frightened at what would happen immediately as what would happen later when the pressure grows to push assistance payments ever upwards.

"For all the defects of the present system, the mind of man is always capable of devising something worse," said Sen. Russell Long in a wry moment last summer.

In the South, coolness to the plan runs deep. Politicians, farmers and business know very well the plan will affect far more than the pocketbooks of that region's poor whites and blacks.

"This program, if it were to pass," said Robert Patrocelli, deputy assistant secretary of HEW, "would be the most important civil rights advance in the last 15 years. It's the kind of civil rights that comes from money in the pocket."

Liberals might question that, but many Southern conservatives believe it. And they don't like it.

Another factor is the enormous impact the plan would have on the Southern economy.

Hundreds of millions of dollars in new purchasing power would pour in, a seemingly attractive feature for Southern businessmen. But the Southern economy, even in the parts of the region booming with new industry, is also reliant to a great extent on cheap labor.

Nash County, N.C., where James Robertson lives, is representative of the new South. In the last ten years, it has seen its industrial employment go up 50 percent, its per capita income almost double.

But plenty of farms remain, with plenty of share-croppers, tenants and laboring families. The cucumbers must be picked in the spring, the tobacco harvested and processed in the summer and fall. And there are shirts to be pressed.

"All I hear sometimes is who's going to press the shirts," said James Glover, the county's welfare director, possibly the only man in Nash County who is for the Family Assistance Plan.

Would the working poor work less hard or quit altogether if their earnings were supplemented.

Most students of poverty and the assistance plan think not. They are thinking mostly of the people who would have steady jobs and probably would go right on doing those jobs.

But for those who work at the lowest and most irregular jobs, the domestics and the farm laborers, the consequences could be unpredictable.

James Robertson said he'd go right on working at the farm. "I know I would," he added. Another farm laborer, younger, said the assistance payments might lead him to get off the farm and try a steadier job. A third, older, said he's been thinking about leaving to make more money. But he likes the farm, and cash from the government would enable him to stay.

But the third man's boss, farmer C. E. Bell, sees nothing good about family assistance.

New York's Ginzberg tells the story of going to Utah recently to speak on welfare reform to a group of western state legislators. After he described how the Family Assistance Plan would help the working poor, one legislator arose to say:

"Mr. Ginzberg, we're not interested in how many more people will get welfare. We're interested in how many we can get off welfare."

It is a feeling shared by countless Americans.

The welfare rolls are rising at a staggering rate.

At HEW, new figures now beginning to circulate show a one-month increase, August to September, of 214,000 people in the category of Aid to Families with Dependent Children (AFDC). That's exactly the increase of the month before, July to August, which was the highest in history.

At present rates, relief rolls across the country are growing at 2.5 million men, women and children a year—more than the nation's annual populaiton increase.

It is a nationwide phenomenon but with extremes to be found not in places like North Carolina but in the large urban centers.

In Los Angeles County, Calif., for instance, one person in every nine is on welfare.

Marvin Friedman, the county's assistant welfare director who was in Washington last week to urge passage of the Family Assistance Plan, talked of the impact on local finances, a $50 million boost in county spending on welfare this year, a property tax rate going up by nearly $1 for every $100 of assessed valuation.

"The reaction is fierce," he said. "The whole thing is a polarizing influence, and it's getting worse. The pressure is on our county supervisors to do something. But we're in a box."

There is evidence that great numbers of the welfare-poor also feel boxed in, their payments often inadequate to live decently and the hard-pressed states searching for ways to keep these benefits down.

It's because of such dilemmas that people use strong language to condemn the existing system. "A huge monster," President Nixon called it. "A godawful mess," was HEW Secretary Richardson's phrase.

The question is whether the Family Assistance Plan will do what the western legislator wants: get people off welfare.

If that's taken to mean putting a large portion of the welfare population to work, the answer is no.

The legislation treats people on welfare this way:

For the first time, it sets a minimum income floor to apply nationally. For a family of four with no earnings, that payment would be $1,600, paid entirely by the federal government. For every extra child, it goes up $300.

This income minimum, is also the base from which the working-poor supplements are computed. A family of four, for instance, can earn $720 a year and still get the $1,600 supplement. For every dollar it earns after that, the supplement goes down 50 cents.

SUPPLEMENTAL FUNDS

For most families on Welfare, the plan means nothing in the way of new income. The exception would come in the deep South and Puerto Rico, where welfare payment levels fall below the $1,600 line for a family of four (Mississippi now pays such a family $840 a year). In these states, about 217,000 welfare families would get a boost in income.

In the majority of states, where welfare payments are higher than the $1,600 level, the bill requires the state governments to supplement the federal payment to existing levels. Welfare families would get no more, no less than they now get, and the attraction to the states is the bill's promise that the federal government would pay all the add-on costs past 1971.

The bill also stipulates a strong work requirement.

To be eligible for payment, able-bodied adults would have to register for work or training. Mothers of pre-school children would be given the option of staying home. Where the children are old enough to go to school, the work requirement applies.

Should this last group of welfare mothers be required to work?

No, says the National Welfare Rights Organization. The requirement is punitive. Mothers should be able to stay with their children if they think that best.

Yes, says the administration. The requirement is conditional on child-care facilities being set up. Besides, 70 percent of the non-welfare women in similar circumstances—with school-age children but no husband—hold jobs.

But just how many welfare recipients can be expected to work. On this point, there also is often more heat than light.

In September, the latest month for which HEW has records, 11.9 million people were in the four federally aided welfare categories (another 900,000 are on general assistance paid entirely by the states).

Of those 11.9 million, subtract 2 million old people, 80,500 blind and 910,000 disabled. These are the non-controversial categories, their numbers showing little or no increase.

The 8.8 million people left are in the AFDC program. It accounts for nearly all the caseload growth and all the controversy.

Subtract another 6.5 million. They are the AFDC children.

Of the 2.4 million adults in the program, 413,000 are fathers. Most are judged incapacitated. But 105,000 of these fathers are able-bodied and jobless, their families made eligible for welfare in 23 states that have unemployed-father programs.

Of nearly 2 million welfare mothers, 302,000 are now working full or part-time. Many do so under relatively recent provisions of the law enabling welfare mothers to earn money and still draw benefits. Before lowering these benefits, the states disregard the first $30 a month the woman makes, plus one-third of what else she earns, plus work-related and child-care expenses.

Another 134,000 mothers are in work-training or waiting for enrollment to train under what is called the WIN program.

That leaves 1.7 million unemployed AFDC mothers. But HEW calculates that nearly 60 percent of these mothers have pre-school children, exempting them from work registration. Of the rest, because of health, education and other factors, HEW believes only about 50 percent are truly employable.

And so of 12 million welfare recipients, those who can be expected to work—the unemployed fathers and the employable mothers of school-age children—total about 500,000.

But even with these people, problems remain. Every survey shows that a large majority of welfare mothers want to work. But they face big barriers. Health is a frequent one. Child care is another. Transportation is a third.

The Nixon legislation includes, in its $4 billion price tag, $66 million for work training and child care programs. Yet as New York City's Ginzberg points out, these will not come along easily. Child care programs are particularly difficult and costly to establish.

"We should face the fact," said Ginzberg, "that not all that many people will come off welfare into jobs. What we can hope for is that the Family Assistance Plan may help keep people from going on welfare, from becoming dependent."

But no one knows to what extent the plan will do that.

Ginzberg's reasoning and hope are based in part on a belief shared by Presidential Counsellor Daniel P. Moynihan and others that money going to working-poor families can help reduce the kind of family break-up—desertion, divorce, separation—that leads to dependency.

But men like Ginzberg and Moynihan concede there is too little information on the characteristics of the army of mothers who in the last year have entered the AFDC rolls. No one is able to say, for instance, how many came out of the ranks of the working-poor intact families and how many were never there at all.

Much of the controversy over welfare and attempts to reform continue to turn on "workfare."

It may be significant that under the Family Assistance Plan the Labor Department would be responsible for administering the work-registration and work-requirement provisions. Heretofore, under WIN and similar programs, welfare recipients came to employment agencies only through referral by welfare case workers.

"This should help," said Los Angeles County's Friedman. "It will eliminate an awful lot of bureaucratic paper reshuffling. Besides, if someone loses a job, why the hell shouldn't he apply for a job rather than welfare?"

At the Labor Department, top officials are aware that, as Assistant Secretary Jerry Rosow put it, "If this program passes, the monkey's going to be on our back, not anyone else's. We won't be able to blame the welfare workers anymore."

SEES FULL EMPLOYMENT

Rosow rejects the argument that the work requirement is inconsistent with today's tight labor market. "By 1972," he said confidently, "we'll be back up to full employment."

Asked how many welfare clients he reasonably sees going to work, Rosow replied:

"If we can get about 100,000 to 200,000 people to work in first year or two, we'll considered it a success. I refuse to set up a long-range goal."

If conservative critics of the Family Assistance Plan find these figures unimpressive, they also continue to ask why this kind of reform effort has to be accompanied by payments to the working poor.

The justifications for tying the two together are complex, just as the plan itself is complex.

"I think it comes down to this," said Mrs. Alice Rivlin, one of the plan's designers, now at the Brookings Institution. "Payments to welfare families are inadequate. But it's very difficult to justify raising those payments because so many working people are paid less than that. The more welfare payments go up the greater the disparity, and the lower the incentive to go to work."

Supporters of family assistance believe it is a breakthrough on this dilemma, at least a start. It would put an income-floor under all families and say to them: Here is an incentive to work; the more you earn, the more you keep.

It isn't all that simple, of course. The plan's designers worked under several restrictions. It was prescribed that no family on welfare would get less than it is now getting, that the states should be given fiscal relief, and that the federal price tag go up by no more than $4 billion.

Within those limits, the designers were able to knock out nearly all the present system's inequities and "disincentives," the kind that sees a man with a full-time job worse off than a man keeping only a part-time job supplemented by welfare, or the kind that makes it possible for a woman to quit a full-time job, go on welfare, go back to some kind of work and, between welfare benefits and earnings, do far better than the working-poor mother.

But they were not able to build in the kind of positive monetary work incentives the conservatives on the Senate Finance Committee wanted. Time and again, told to make it more attractive for welfare families to work, HEW officials came back to say that was impossible within the $4 billion framework of the plan. It was a mathematical taffypull that no one could win.

Meanwhile, conservative resistance hardened. Some of the liberal groups, chiefly John Gardner's Common Cause, went to work for the bill. But other liberals, fearing to get too far away from George Wiley and his welfare mothers, continued to both damn and praise. The President, for his part, turned to talk of getting the welfare bums to work.

Time ran on, and now it is nearly out.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent to have printed in the RECORD the impact on the States of the revised family assistance plan.

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

THE IMPACT ON THE STATES OF THE REVISED FAMILY ASSISTANCE PLAN—THE RIBICOFF-BENNETT AMENDMENT

1. In the first year of the program, each State would have to spend only 90 percent of what it spent in CY 1971 on welfare. This

would be a flat ceiling. Thereafter, the State's obligation would increase only by an amount equal to the increase in the Consumer Price Index between 1971 and the year in question.

This means that from now on every State would know the dollar limits of its welfare burden, and could budget and set tax policies accordingly. The effect of placing this ceiling on State welfare costs is to transfer to the Federal Government the entire cost of caseload increases, which is the biggest element in soaring welfare budgets.

Quite beyond the cost ceiling involved in this amendment, each State would actually have positive fiscal relief of 10 percent of its 1971 welfare expenditures in the first year of operation of the new program. This is money saved.

2. If any State voluntarily increased its benefit levels in the future, it would receive 30 percent Federal matching, up to the poverty line, for the family (AFDC) category, and 25 percent matching in the adult (aged blind, disabled) category.

3. States are given major new options with regard to the administration of all income assistance programs, as follows:

a. If the State wants HEW to administer its program of State supplemention and adult category assistance, it will do so with the Federal Government paying full administrative costs. This produces major further savings for the States by eliminating present administrative costs—a possible total saving of about $100 million.

b. Further, the States may transfer to the Federal Government the administration of remaining income transfer programs, including general assistance, food stamps, and Medicaid and surplus commodity eligibility determinations. In these cases, the State would pay only one-half of *extra* costs to the Federal Government of assuming these administrative functions, which costs should generally be quite small since HEW would already have most of the needed information on file for welfare purposes.

4. Major amounts of additional Federal money would go to new working poor recipients in each State, thereby stimulating economic conditions.

5. Major increases, over $750 million in the first full year, are provided for expanded job training, public service employment, and child care programs, with increases over the current Federal matching shares in both the manpower and child care efforts.

Mr. RIBICOFF. Mr. President, I also ask unanimous consent to have printed in the RECORD a letter on the White House stationery dated December 17, 1970, signed by Daniel P. Moynihan, Counsel for the President.

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

THE WHITE HOUSE,
Washington, December 17, 1970.

HON. ABRAHAM RIBICOFF,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RIBICOFF: In the aftermath of the President's veto yesterday of the Comprehensive Manpower Act, questions have been raised about the Administration's commitment to earmark $150 million of Department of Labor funds for public service job programs for Family Assistance recipients.

That commitment by the Administration remains fully in effect and will be honored if the amendment is enacted. If there is any imprecision in the text of your amendment as to whether this earmarking provision can stand alone, without passage of the Comprehensive Manpower Act, we would accept a clarifying change. Specifically, we would support deletion of the words "for public service employment programs or other similar activities," which appear on page 54, lines 20–21, of the Family Assistance bill (amendment no. 1097 to H.R. 17550) to make clear that the earmark applies to all Department of Labor funds, without regard to the source of their legislative authorization or the passage of the Comprehensive Manpower Act.

We are grateful for your strong and continued support on this critical legislation.

Respectfully,

DANIEL P. MOYNIHAN,
Counsellor to the President.

Mr. RIBICOFF. Mr. President, I ask unanimous consent to have printed in the RECORD a brief description of the family assistance proposal as offered in amendment to H.R. 17550.

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

BRIEF DESCRIPTION OF THE FAMILY ASSISTANCE PROPOSAL AS OFFERED IN AMENDMENT TO H.R. 17550

I. FAMILY ASSISTANCE BENEFITS

A. Eligibility for the new family assistance benefit

Each family with children whose includable income (for definition of excluded income see below) is less than the family benefit level—computed as $500 each for the first two members of the family and $300 for each additional member—would be eligible for a family assistance benefit. The amount of the benefit would be the difference between these amounts and the non-excludable income. For example, a family of four with no income would be eligible for a benefit of $1,600. Every low income family with children, including those now eligible under Aid for Families with Dependent Children (AFDC) and those not now eligible because an employable father is present (the working poor), would be eligible.

In determining income for the purpose of establishing eligibility for and the amount of the benefit, the following types and amounts of income would be entirely excluded:

(1) all earned income of adult members of the family at the rate of $60 per month plus ½ of the remainder (the so-called earnings incentive or disregard);

(2) food stamps and other public or private charity;

(3) allowances paid to those in job training;

(4) the tuition portion of scholarships and fellowships.

Subject to certain limitations prescribed by the Secretary of HEW, the following types and amounts of income would also be excludable:

(5) all earnings of a child under age 21 and attending school;

(6) infrequently earned or small amounts of income;

(7) earnings needed to pay for necessary child care.

Remaining earned income and all unearned income (not otherwise excluded above) would be counted and would therefore result in a dollar-for-dollar reduction in family assistance payments. Such non-excludable income includes social security, civil service, and railroad retirement benefits; veterans compensation and pensions; farm price support payments and soil bank payments; alimony and child support payments; and interest, rent, dividends and so on.

A family with more than $1,500 in resources, other than the home, household goods, personal effects, and property essential to the family's means of self-support, would not be eligible for family assistance benefits.

B. Definitions of family and child

An eligible family must consist of two or more people related by blood, marriage or adoption and living together in the United States, at least one of whom is a dependent child (under age 18 or under 21 if attending school). The Secretary would apply State law in determining family relationships.

C. Registration with public employment service

Each member of a family found to be eligible for family assistance benefits would be required to register with a public employment office unless he or she is:

(1) unable to work because of illness, incapacity, or advanced age;

(2) a mother caring for a child under 6;

(3) the mother, if the father is already required to register;

(4) a person who is required to care for an ill member of the household; or

(5) a child who is either under the age of 16 or a student.

Any person who falls into one of the above exempt categories can still voluntarily register at the employment office.

If an individual required to register refused to do so or refused a suitable training or job opportunity without good cause, he would lose his eligibility for family assistance and State supplementary (see below) benefits. The family would continue to receive a reduced benefit, however.

A suitable job is defined in the bill as one taking into account an individual's health, safety, prior training and experience, distance to work, and other relevant factors. It must pay at least the Federal or State minimum wage if applicable, or the prevailing wage for jobs not covered by minimum wage legislation (a job would not be considered suitable if the prevailing wage is less than $1.20 per hour).

The Secretary of Health, Education, and Welfare is required to make sure that any necessary child care services are provided where an individual is registered and participating in training or employment.

II. STATE SUPPLEMENTATION OF FAMILY ASSISTANCE BENEFIT

Each State which has an AFDC payment level in November 1970 higher than the family assistance benefit must agree to supplement the family assistance benefit up to that previous payment level (or up to the poverty level, if lower). State supplemental payments would be required for families where at least one parent is absent, incapacitated, or unemployed—the current AFDC and AFDC–UF groups—but not for the working poor.

The family assistance eligibility rules—e.g., the $1,500 resources limitation, the definition of family and child, the excludable income provisions (other than those related to the earnings incentive)—would be made applicable to the State supplementary programs, thereby resulting for the first time in national welfare eligibility standards. The States would have to exclude the first $720 a year of earned income plus ⅓ of the earnings in excess of $720 as an earnings incentive.

The Federal government would provide 30 percent matching for the cost of making these required supplementary payments, but there would be no matching for supplementary payments which exceed the poverty line.

III. ADMINISTRATION

The bill provides for Federal administration of payments to those ineligible for State supplementation (the working poor), and of payments to all families in States where the November 1970 AFDC payment to a family of four with no other income is less than the family assistance payment. In other States, the State may opt for program administration of payments to families eligible for State supplements. However, if a State agrees

to Federal administration of its supplemental program, the Federal share of the administrative costs would be increased from 50 percent to 100 percent. This would mean additional fiscal relief to the States choosing this option.

IV. WORK AND TRAINING PROGRAM

A. New program established

The existing Work Incentive Program would be repealed and a new program would be established to take its place. The Secretary of Labor would assure the development of an employability plan for each individual registered with the employment office under the family assistance program according to a system of priority categories.

The individuals would then receive the services and training called for under the plan. The Secretary of Labor is directed to earmark $150 million for public service jobs, to provide employment opportunities for recipients. Appropriations (no dollar amount specified) are authorized to meet 90% of the cost of the program. A total of $750 million in new training and day care funds would be made available for members of families eligible for FAP benefits.

B. Training allowances

Each person participating in the training program would receive an allowance of $30 a month, or the amount of the Manpower Development and Training Act allowance if higher for those enrolled in such programs, in addition to FAP and State payments. The Secretary would also provide allowances to cover the transportation and other costs associated with the training.

C. Child care and supportive services

The Secretary of Health, Education, and Welfare is authorized to make payments for up to 100 percent of the cost of projects for child care needed by parents participating in the work, training, or rehabilitation programs. States would be required to provide other supportive social services—such as vocational rehabilitation, health and counseling—needed to enable recipients to enter training and jobs, and the Federal government would pay 90 percent of the cost of such efforts.

V. AID TO THE AGED, BLIND, AND DISABLED

A. Federal standards and requirements

The present separate titles for programs for aid to the needy, aged, blind, and disabled are repealed and a new combined Federal-State program is established to cover essentially the same people. Under the new program, the States could not have any duration of residence or length of citizenship requirement, or have relative responsibility provisions.

The States would be required to (1) provide a payment sufficient to bring each single recipient's total income up to at least $130 a month ($230 for a couple), of, if higher, the standard now in effect, (2) follow the Secretary's definition of blindness and severe disability, and (3) use the Federal definition of allowable resources applicable to the family assistance program ($1,500 plus home, personal effects and income-producing property essential to the person's support). The establishment of the high minimum income standards for the aged, blind, and disabled is accompanied by the elimination of food stamp benefits for these recipients.

The earnings incentives for the disabled and aged have been increased, requiring the States to exclude the first $85 per month of earnings plus ½ of the rest for the severely disabled (the same provision which now exists for the blind), and the first $60 per month of earnings plus ½ of the rest for the aged (the same as the family assistance earnings disregard).

B. Federal matching provisions

The Federal government would pay 90 percent of the first $65 average payments made to eligible persons, and 25 percent of the remainder up to a limit to be set by the Secretary. The Federal government would also pay 50 percent of the administrative costs.

C. Administration

As under the family assistance plan, the Secretary could enter into an agreement with a State under which the Federal government would perform all or some of the functions involved in administering the program for the aged, blind, and disabled. If the State chooses to contract with the Secretary to have him assume these functions, the Federal government would pay for 100 percent of the administrative costs.

VI. OTHER PROVISIONS

A. State savings provision

Each State must spend 90%, but no more than 90%, of its actual calendar year 1971 expenditures for maintenance payments in carrying out the bill's provisions. (The CY 1971 base amount would be adjusted annually for cost of living increases.) Thus, required State spending in the new program's first full year would be 10% less than the prior year's expenditures.

B. Special provisions for Puerto Rico, Guam, and the Virgin Islands

Both the new family assistance and adult category programs apply in these jurisdictions, but all of the dollar figures in both programs (except the initial earnings disregard—i.e., the first $60 per month in family assistance) are to be modified (but only downward) by the same proportion that the per capita income of each bears to that in the State with the lowest per capital income. This will not reduce the amounts for Guam and the Virgin Islands, but will result in about a 40 percent reduction for Puerto Rico.

C. Pretests

The bill authorizes tests of the Family Assistance proposal to begin as soon as possible after January 1, 1971. The Secretary of Health, Education, and Welfare is directed to report on these tests to the President and to the Congress by March 1, 1972. Tests of a wage subsidy approach to welfare reform are also authorized by the bill.

D. Cost of living differentials in benefit levels

The Secretary is directed to study the cost of living differentials which prevail among different sections of the nation and develop a plan for varying Family Assistance benefits based on these differentials. He is required to report on his plan to the Congress by January 1, 1972.

E. Effective dates

The provisions of the bill would be effective on January 1, 1972, except for the working poor program, which would begin on July 1, 1972, and the child care provisions, which are effective immediately upon enactment.

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

The PRESIDING OFFICER. Is the Senator asking for the yeas and nays on his amendment?

Mr. RIBICOFF. That is correct.

The yeas and nays were not ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. RIBICOFF. And, Mr. President, I ask unanimous consent that I retain the floor.

Mr. HANSEN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HANSEN. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Connecticut? The Senator retains his right to the floor and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the Ribicoff-Bennett amendment to the Scott amendment and the yeas and nays on the Scott amendment.

Mr. BYRD of West Virginia. Mr. President, I ask that it be in order to order the yeas and nays on both amendments.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The yeas and nays were not ordered.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that I retain the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WILLIAMS of Delaware. Mr. President, I ask uanimous consent that the yeas and nays be ordered on both amendments.

Mr. BYRD of West Virginia. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Delaware?

Mr. RIBICOFF. Mr. President, I am pleased to yield to the Senator from Delaware and ask unanimous consent that I retain the floor.

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

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the yeas and nays be ordered on both amendments.

Mr. BYRD of West Virginia. I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Connecticut has the floor.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. 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 Senator from Connecticut has the floor.

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

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the Ribicoff-

Bennett amendment to the Scott amendment and the yeas and nays on the Scott amendment.

Mr. LONG. Mr. President, I ask unanimous consent that he may ask that.

The PRESIDING OFFICER. The Senate has already granted unanimous consent that it be in order to order the yeas and nays on both amendments.

Mr. LONG. Objection was heard.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. RIBICOFF. Mr. President, I think there is a misunderstanding. The request was made for the yeas and nays on the Ribicoff-Bennett amendment and then the yeas and nays on the Scott amendment as amended by the Ribicoff amendment. That is proper procedure.

Mr. LONG. Mr. President, I ask——

The PRESIDING OFFICER. The Chair informs the Senate that earlier unanimous consent was requested that it be in order to order the yeas and nays on both amendments at the same time. That request was granted, there being no objection. A request was made on one amendment later, and there was objection.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays on both amendments.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The Chair states that it requires 18 for a proper second.

Mr. GORE. Regular order.

The PRESIDING OFFICER. Regular order is requested. The Senator from Connecticut has the floor under regular order.

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

Mr. RIBICOFF. Mr. President, I yield to the Senator from Louisiana without losing my right to the floor.

Mr. LONG. Mr. President, I ask unanimous consent that the yeas and nays be ordered on the two amendments.

The PRESIDING OFFICER. Is there objection?

Mr. GORE. I object. The Senate ought not to operate without some reasonable proximity of a quorum.

Mr. RIBICOFF. Mr. President, I suggest the absence of a quorum and ask unanimous consent that I not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. LONG. Mr. President, I ask unanimous consent that further proceedings under the quorum call be terminated.

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

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

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. RIBICOFF. Mr. President, I ask for the yeas and nays on the Ribicoff-Bennett amendment and the Scott amendment.

The PRESIDING OFFICER. Under the previous unanimous-consent order the yeas and nays can be ordered together.

Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered on both amendments.

ORDER OF BUSINESS

Mr. SPARKMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. RIBICOFF. I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut yields the floor. The Senator from Alabama is recognized.

AMENDMENT OF THE BANK HOLDING COMPANY ACT OF 1956—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6778) to amend the Bank Holding Company Act of 1956, and for other purposes. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. MONTOYA). 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 15, 1970, pp. 41480–41484, CONGRESSIONAL RECORD.)

Mr. SPARKMAN. Mr. President, the conference on H.R. 6778, the Bank Holding Company Amendments of 1970, was one of the most prolonged and arduous in which I have ever participated. However, I am happy to report that we were able to obtain agreement on what I consider to be a very good bill.

The bill, incidentally, conforms in all major respects to the objectives and even the language of the Senate-passed bill. For instance, we were able to retain the primary concept originally passed by the Senate in which we set forth guidelines under which the Federal Reserve Board will continue to administer the act and, at the same time, provided the necessary flexibility of regulation and administration which the Federal Reserve Board requested in order to permit it to depart from past precedents and to permit expansion of bank and bank related activities which will be required in order to meet fully the rapidly expanding and varying financial needs of the economy of the Nation.

I am convinced that the bill finally agreed to is a good one and will meet this need for flexibility while, at the same time preserve ample protection for independent small businessmen to insure that they will continue to flourish.

Mr. President, before presenting an outline of the results of the conference on the Bank Holding Company Amendments of 1970, I should like to make a few general remarks about legislative history.

Of course, the language of the statute controls its meaning, in the absence of uncertainty or ambiguity. When the language is unclear, there are certain rules of statutory construction which come into play. Among these is the question of determining the intent of Congress by examining the reports and debates surrounding a particular issue. Often there are occasions when a conference committee will accept a provision originating in one or the other House of Congress which was not even considered in the other House. In cases such as this, the most authoritative sources in determining the most accurate legislative history are the committee reports and floor statements of the House which originated the particular provision in question.

Senate conferees traditionally do not write a "statement of managers" which accompanies the conference report, nor does the statement of managers on the part of the House necessarily reflect the views of the Senate conferees as to questions of interpretation and legislative history. Particularly, as indicated above, language in a statement of managers cannot be authoritative on the question of a Senate amendment.

Now, I think it will be helpful to describe briefly the provisions of the conference bill.

Both bills removed the exemption for one-bank holding companies, and, of course, the conference committee's bill accomplishes this result.

NONBANKING ACTIVITIES

Section 4 of the existing act prohibits a bank holding company having shares of any company which is not a bank, subject to certain exceptions. One of the exceptions is in section 4(c)(8), which, in its present form, permits a bank holding company to have shares of a nonbanking company "all the activities of which are of a financial, fiduciary, or insurance nature" and which the Board, after a formal hearing in each case, has determined to be "so closely related to the business of banking or of managing or controlling banks as to be a proper incident thereto and as to make it unnecessary" for the prohibition of section 4 of the act to apply "in order to carry out the purposes" of the act.

Former Board Chairman Martin and Chairman Burns each urged the Congress to amend section 4(c)(8) to provide a more flexible or less restrictive standard for permissible nonbanking activities for bank holding companies and their subsidiaries, and to change the present burdensome and time-consuming requirement for a formal hearing on every application, to a requirement for a hearing only when one is requested.

In so testifying at the Senate committee's hearing on this legislation, Dr. Burns advised that:

> The Board recommended that the applicability of the section 4(c)(8) exception should be made to depend on a determination by the Board, after opportunity for hearing if requested, that the particular "nonbanking" activity is "functionally related to banking in such a way that its performance by an affiliate of a bank holding company can be reasonably expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such

as undue concentration of resources, decreased competition, conflicts of interest, or unsound banking practices."

This was the approach adopted by the bill passed by the Senate. The House bill incorporated a similar "functionally related" test and the same modified hearing provision in its revision of section 4(c)(8), but confined the applicability of the section to "activities of a financial or fiduciary nature."

The House bill also had a list of prohibited activities which was opposed by all the Government agencies involved, including the Federal Reserve Board and the Justice Department.

The House conferees offered to give up this latter provision if the Senate conferees would agree to a return to the present language of the act in section 4(c)(8). When this was refused by the Senate conferees, the conference began discussing alternative language and the House conferees, by a letter to Chairman Burns of the Federal Reserve Board dated November 19, solicited the Board's views on alternative language. Chairman Burns replied in a letter addressed to the chairman of the House conferees dated November 23.

Mr. President, I ask unanimous consent to include in the RECORD Chairman Burns' letter and also the letter written by Representative Patman, chairman of the House conferees.

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

HOUSE OF REPRESENTATIVES,
Washington, D.C., November 19, 1970.

Hon. ARTHUR F. BURNS,
Chairman, Board of Governors,
Federal Reserve Board,
Washington, D.C.

DEAR CHAIRMAN BURNS: As you no doubt know, the House and Senate conferees on H.R. 6778, the bank holding company bill, have been meeting for the last two days to attempt to resolve the differences in their versions of the bill.

A majority of the House conferees has proposed, in return for dropping the so-called laundry list in the House version of H.R. 6778, that the conference adopt as the standard by which the Federal Reserve Board would make determinations in Section 4(c)(8) applications, the language of the 1956 Act with certain modifications including the deletion of the "financial, fiduciary and insurance" language. Enclosed is a copy of the compromise discussed above.

A majority of the House conferees has made it clear that it will not compromise further than the proposal outlined above in connection with the bank related activities issue. Therefore, I request the Board of Governors of the Federal Reserve to express its views on whether it would prefer having the one bank loophole to the Bank Holding Company Act of 1956 removed while retaining essentially the standard on Section 4(c)(8) applications stated in the 1956 Act, or would prefer that no legislation on this issue be enacted during this Congress.

We would appreciate your answer to this question as soon as possible, preferably by noon on Saturday. Since it appears that the conferees have narrowed this crucial issue down to the question propounded above, it would be appreciated if you would limit your reply to the above stated question.

Sincerely yours,

WRIGHT PATMAN,
Chairman.

ENCLOSURE

The House conferees agreed to recede with an amendment which reads as follows:

Section 4(c)(8) is amended to read:

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing, has determined to be so closely related to the business of banking or of managing or controlling banks as to be a proper incident thereto and can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adveres effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern."

CHAIRMAN OF THE BOARD
OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., November 23, 1070.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in reply to your letter of November 19, 1970, regarding H.R. 6778, the bank holding company bill.

The Board has recommended, and continues to recommend, that section 4(c)(8) be revised to enable bank holding companies to engage, through nonbank subsidiaries, in any activity that is "functionally related to banking in such a way that its performance by an affiliate of a bank holding company can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects . . ." Once a particular activity is determined to be permissible under this standard, Board approval would be required before a holding company could establish a subsidiary to engage in the activity. This screening process would identify the kinds of services related to banking that bank holding company systems are likely to be able to offer the public conveniently and efficiently, and would establish conditions under which entry into the authorized lines of business should enliven competition rather than diminish it.

These results could be reached by interpretation under the draft paragraph enclosed with your letter. However, less uncertainty and perhaps less need for future statutory revisions would be experienced if changes are made to solve two problems discussed in the next two paragraphs.

First, in the limited area in which applications have been approved under the existing section 4(c)(8), the Board has in the past interpreted the statute as requiring a "direct and significant connection" between the activities of the proposed subsidiary and those of the subsidiary banks of the holding company. But we do not believe it is desirable to unduly restrict entry by nonbank subsidiaries into markets that are distinct from those served by the subsidiary banks of the holding company. This position may lessen risks of tie-ins and is consistent with Governmental policies to promote competition. This was one of the reasons we recommended that "closely related" be changed to read "functionally related" in the statute; we wanted to avoid perpetuating the concept that a nonbank subsidiary's business must be related to the business of an affiliated bank. If the conferees prefer to keep "closely related" in the language of the statute, our objective would be served by changing the words "the business of banking or of managing or controlling banks" to read "banking or managing or controlling banks." We have in mind indicating that a nonbank subsidiary's activities should be related to banking (or managing or controlling banks) generally, rather than to the specific business carried on by the subsidiary banks of the particular holding company involved.

Second, we think the language of the statute should make clear that there are two tests to be satisfied in deciding whether nonbank subsidiaries of bank holding companies should be allowed to engage in a particular activity: (1) whether the activity is closely related to banking, and (2) whether it is a proper incident to banking, and that in applying the second test, the Board is to weigh the possible benefits to the public against the risks of adverse consequences. We believe that the language proposed by the House conferees might be misconstrued to apply three tests: (1) whether the activity is closely related, (2) whether it is a proper incident to banking, and (3) whether the benefits outweigh the risks. To avoid such a possibility, we suggest the following revision (which also incorporates the changes discussed above). Language in brackets would be omitted, language in italics would be inserted.

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined [to be so] *are* closely related to [the business of] banking or [of] managing or controlling banks [as to be] *and are* a proper incident thereto. [and] *In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company* can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern."

I have offered these comments in the hope that the conferees are prepared to consider suggestions designed to help accomplish objectives with which we believe you agree. In the Board's judgment, the modifications we suggest serve to clarify and are in harmony with the language attached to your letter.

The Board continues to feel it is highly important to enact one-bank holding company legislation this year, rather than start the process over again next year, with all the uncertainties and complications that might be invited. One member of the Board, Governor Robertson, would support the language attached to your letter without change.

Sincerely yours,

ARTHUR F. BURNS.

Mr. SPARKMAN. The language suggested by Chairman Burns in his letter formed the basis for the conference agreement on language for this section. In fact, there were very few changes made in the new language suggested by the Board, so that I am certain that the intention of both former Chairman Martin and Chairman Burns, in testifying for the Board, can and will be carried out under the language agreed upon. To reiterate what Chairman Burns stated in his letter:

If the conferees prefer to keep "closely related" in the language of the statute, our objective would be served by changing the words "the business of banking or of managing or controlling banks" to read "banking or managing or controlling banks".

The conferees agreed to this suggestion, as well as others, made by Chairman Burns. The final provision agreed to by the conferees reads as follows:

(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern:

As is readily seen, this varies only slightly in language and none in substance from the language suggested by Chairman Burns in his letter of November 23. This language as agreed to will serve the purposes of the language in the Senate bill on this subject as explained in the Senate committee report.

I might say this was a free and open conference. It was worked out carefully between the conferees. I am pleased that we were able to work out this most troublesome part of the bill, to do the thing that we in the Senate had been proposing all along should be done.

It frees the Board of the restrictive precedents established under the present act and it provides that permissible activities may be related to the business of banking generally, rather than perpetuating the concept that such activities must be related to the specific business carried on by the subsidiary banks of the particular holding company involved. Furthermore, it defines "a proper incident" to banking in very broad terms of various benefits to the public as opposed to possible adverse effects.

As Chairman Burns stated in his letter of November 23, this result might have been obtained by interpretation of the proposal of the House conferees, which was rejected by the conference. However, as he stated, "Less uncertainty and perhaps less need for future statutory revisions would be experienced" if the changes suggested by him were made.

Your conferees are satisfied that the new language will provide the flexibility desired with proper safeguards for the public interest.

GRANDFATHER CLAUSE

After reaching the decision to remove the one-bank holding company exemption, it became necessary to determine what course of action was to be taken in regard to those one-bank holding companies which are engaged either directly or through subsidiaries, in activities to be prohibited by the Act.

The Conference agreed with the Senate's position that the most appropriate measure would allow existing one-bank holding companies to continue to engage in the activities and retain the subsidiaries they held on June 30, 1968, rather than requiring them to cease the activity or divest the subsidiary.

Congress had twice refrained from placing one-bank holding companies under the provisions of the Bank Holding Company Act. The latest such decision was only 4 years ago. Because of this, it was the desire of the conference to choose a grandfather date upon which all concerned parties should have had reasonable notice that the Bank Holding Company Act would probably be amended to remove the one-bank holding company exemption.

The June 30, 1968 date was chosen because it was about that time that it began to become clear that the major banks of this country were going to restructure themselves as subsidiaries or affiliates of one-bank holding companies. By that date, several such restructurings had already been announced or had been publicized as being planned. No significant nonbank acquisitions, however, had yet been made by such companies. The controversy engendered by the foregoing publicity substantially insured that Congress would have to restudy the one-bank exemption and to a certain extent the public was thus put on notice that the issue was going to be reconsidered by the Congress. While almost any date chosen could be considered as arbitrary, and while several other dates could also be considered as fair, it was the judgment of the conference that on balance the June 30, 1968, date chosen by the Senate was the most equitable.

The House conferees, though willing to go along with the June 30, 1968, date, were concerned that the holding companies who obtained the benefit of the grandfather clause, particularly those owning large banks, would be in a position to take undue advantage thereof and abuse the public. While we agree with all the Government regulatory agencies that no major abuses have been effectuated by the existing one-bank holding companies, nevertheless, in order to reach accord with the House conferees, it was decided to minimize even the potential for abuse by conferring on the Federal Reserve Board the power to terminate any authority obtained by holding companies under the grandfather clause.

Under the compromise, the Board may order such termination only if it determines that in the case of the particular holding company involved, it is necessary to do so in order to prevent undue concentration of resources, decreased competition, conflicts of interest, or unsound banking practice. The holding company involved must be given notice and the opportunity for a hearing.

In other words, though it is the general intention of the Congress, on the basis of fairness and equity, to permit holding companies who owned a bank on June 30, 1968, to continue to conduct the nonbank activities in which they were then engaged, the Board may, by application of the standards described above, limit the benefits conferred by the grandfather in any particular situation where abuse of the public is not merely remote or potential but more immediate or actual.

The Board may act under this power at any time. With respect to holding companies controlling banks with assets of $60 million or more, however, the Board will be required to review their nonbanking activities within the 2 years following the date of enactment of the bill or the date the banking assets controlled by the holding company reaches $60 million. It is important to note that the Board's authority with respect to such holding companies does not end after the 2-year period. The grandfathered benefits may at any time thereafter still be terminated if the Board subsequently finds such action to be necessary under the applicable standards.

A holding company whose grandfather rights are terminated by order of the Board will have the right to judicial review thereof under the applicable provisions of the act.

The grandfather clause does not permit a company who has the benefit thereof to eliminate competition in the grandfathered activities through the acquisition of the stock or the assets of a going concern. It is entirely appropriate, however, for a company to be allowed to continue to engage in those activities in which it was engaged on June 30, 1968, and to expand those activities other than by such anticompetitive acquisitions.

The reason for prohibiting a holding company from purchasing a going concern engaged in one or more of the grandfathered activities of the holding company is that such acquisition would tend to have an anticompetitive effect in that it would reduce the number of firms competing against each other in a given activity. Conversely, the bank holding company is left perfectly free to form a new company to engage in one or more of its grandfathered activities since such formation would have a procompetitive effect by increasing the number of firms competing in a given activity.

This restriction on the purchase of assets does not bar incidental purchases from another company. Nor does the restriction prevent a holding company from purchasing the assets of a company engaged in the grandfathered activities if that company is going out of business. A company going out of business is not a "going concern" within the meaning of the provision reported by the conference.

The conference adopted the Senate's view in including a provision which would allow the holding company the necessary flexibility to reorganize within its internal structure so that it can shift responsibility for operating one or more of its grandfathered activities from one subsidiary to another, from the holding company itself to a subsidiary and vice versa, or to form a new subsidiary for this particular purpose.

Thus, as has been pointed out, the holding company entitled to the benefit of the grandfather clause will be limited in the activities it may conduct under that clause and will be restricted in the type of acquisitions it may make. The basic long-term expansion of these companies that decide to keep their banks will be committed to those activities which are permitted to bank holding

companies generally. In this regard, the one-bank holding companies which become registered bank holding companies as a result of this legislation will have the rights and privileges of any other registered bank holding company, including the right, subject to the approval of the Federal Reserve Board, to own more than one bank and engage in activities related to banking.

DIVESTITURE

As a result of the passage of this bill, some companies will be required to divest one or more subsidiaries, or cease to engage in one or more activities. In certain cases, the activities will have been commenced or the subsidiaries acquired after the June 30, 1968, grandfather date. In other situations, the Board may order divestiture despite the grandfather clause under certain conditions, as described earlier. Moreover, there will be a number of companies that will find it impossible to continue normal growth under the act even with the grandfather clause that has been adopted.

In deciding what provision to make for a divestiture period, there were several factors which were carefully considered by the conference.

It is anticipated that the Congress will follow precedent and pass a bill providing companies required to make divestitures under this legislation with relief from an undue tax burden as a result of such divestiture.

It would be inequitable to require these divesting companies to commit themselves to a divestiture plan without knowing what their tax situation will be in regard to such divestiture. Accordingly, it was deemed necessary to provide a divestiture period of sufficient length that these companies will have adequate time to make their divestiture plans after the appropriate tax relief measure is passed by Congress.

Another factor considered by the conference is the current state of the economy. Market conditions are far less than ideal, availability of money and credit is far below optimum, and the economy in general is going through a period of readjustment. These facts are persuasive that divesting companies should be given more time to divest than would seem to be necessary under better economic conditions.

Finally, the conference was aware that there may be a large number of banks or nonbanking subsidiaries which will be divested as a result of the passage of this legislation. Under these circumstances, the sellers may not be able to get fair market value for the assets they are divesting, particularly if they are all required to divest simultaneously within a relative short period of time.

As it passed the Senate, the bill would have allowed companies required to make divestitures an initial period of 5 years within which to do so, with the opportunity of obtaining up to an additional 5 years upon the approval of the Board. The conference decided to provide for a flat 10-year divestiture period. This will eliminate part of the additional burden upon the Board that will result from the enactment of the bill. Moreover, it was deemed to be more equitable to the companies that will be required to make divestiture.

In the case of divestiture ordered by the Board as a result of its termination of the authority acquired by a company under the grandfather clause, the 10-year period will commence to run from the time the order of the Board becomes final, after the conclusion of any appeals or after the time to appeal has expired. In all other cases, the time will run from the date of enactment of the bill.

The conference adopted the provision from the Senate bill which will allow any company covered by this legislation to retain or acquire whatever shares, or engage in whatever activities, it wishes so long as, within the applicable divestiture period, it either ceases to be a bank holding company or ceases to retain direct or indirect ownership or control of shares or to engage in activities that are not authorized under an applicable section of the act.

In order to insure that there is no evasion of the general intent and purpose of this provision, the bill provides that companies utilizing this authority must comply with such other conditions as the Board may by regulation or order prescribe. If it appears to the Board that there is some incentive for a holding company to make an acquisition that would not serve the purpose of this provision, then the Board is given the express authority to issue regulations or orders to prevent such an acquisition. It is contemplated that the Board will insure that the authority to make the acquisitions and engage in the activities provided by this particular provision will not be utilized by a bank holding company covered by this legislation to go into activities and make acquisitions which are totally unrelated to its present activities in order to gain an undue advantage during the applicable divestiture period, or for any other purpose inconsistent with the intent and purpose of the Act.

EXEMPTION FOR CERTAIN COMPANIES

The Senate bill contained a provision which would have exempted from section 4 of the act any one-bank holding company in existence on the date of enactment of the bill if (A) the net worth of the bank did not exceed $3 million, or (B) the net worth of the bank was not greater than $50 million and the bank's net worth was less than 25 percent of the net worth of the entire holding company. However, the Board was authorized to waive the $50 million limitation to avoid undue hardship or to meet a public need for banking services, or it could otherwise modify or terminate the exemption in order to prevent undue concentration of resources, decreased competition, conflicts of interest, or unsound banking practices.

The House bill contained no similar provision.

In lieu of the Senate amendment, the conference committee adopted a provision which gives the Federal Reserve Board broad authority to make exemptions from section 4 of the act for bank holding companies which controlled one bank prior to July 1, 1968, and have continuously controlled the bank since, "in order first, to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or second, to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or third, to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests." This substitute for the outright exemption provided in the Senate bill, I believe, is a reasonable solution. It recognizes the validity of the Board's consistent position that the legislation to remove the one-bank holding company exemption is necessary to prevent possible future abuses and is not being taken on the basis that abuses have occurred in the past. The Board is given ample authority to provide relief, by means of granting exemptions for those situations which are described in Senate Committee Report No. 91–1084, pages 9 and 10. I ask unanimous consent that that portion of the report be reproduced in the RECORD at this point.

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

EXEMPTIONS FOR CERTAIN COMPANIES

As has been previously noted, the decision to remove the one-bank holding company exemptions is being taken as a necessary step to prevent possible future abuses and is not being taken on the basis that abuses have occurred in the past. Accordingly, as discussed, the committee adopted a grandfather date designed to allow companies existing prior to that date to continue to retain the subsidiaries and engage in the activities they held or in which they were engaged on that date. The committee is aware, however, of the existence of two other types of holding companies whose hardship will not be adequately relieved by the provision dealing with a grandfather date.

The first of these types is the one-bank holding company located in the small towns across the country whose banks are small, and whose nonbanking activities are generally limited to one or two other types of businesses. The committee believes that the possibility of abuse of the purposes of the act by such companies is remote. Accordingly, the committee adopted a provision which would exempt from the prohibitions against nonbanking activities all one-bank holding companies existing on the date of enactment of the proposed legislation, so long as the bank subsidiary does not have a net worth in excess of $3 million. These companies would be allowed to engage in whatever activities they want, without regard to the prohibitions in the act, as long as the bank does not merge with another bank without the express approval of the Federal Reserve Board; increase its capital by contributions from its nonbanking subsidiaries, its nonbanking parent, or from affiliates of such parent company without prior express approval; or pay dividends in excess of its current earnings.

The second type of bank holding company not relieved by the grandfather clause is the large diversified company which is the owner of a bank as well as numerous diversified nonbanking subsidiaries. These corporations are owners of banks for a variety of reasons. Some have owned their banks for a number of

years and acquired the bank to prevent its failure, or to insure that their employees had adequate banking services at their disposal. Other such companies acquired their banks on a more recent date, again for a variety of reasons. The committee is convinced that these companies have not utilized their banking subsidiaries to gain any special advantage for their nonbanking subsidiaries nor have they perpetrated any other abuses in connection with their ownership or control of a bank.

The nature of the businesses of these companies is such that they must continue to broaden their nonbanking activities and affiliations. Their growth must be directed toward those businesses and activities in which they are not engaged. Consequently, the existence of a grandfather clause offers little aid to such companies. Without some provision in the act, they would in fact be required to either divest their bank or cease to expand in their nonbanking activities. Thus, in order to prevent these companies from suffering undue hardship as a result of the proposed legislation, it would be necessary to adopt a provision exempting these companies from the prohibition contained in the act against engaging in new nonbanking activities.

However, the committee was concerned that to allow such companies a complete exemption from the prohibitions against nonbanking activities might in time make it possible for one or more of these companies to obtain some advantage over their competitors as a result of their bank ownership, or to derive some other benefit or advantage thereby which would be contrary to the public policy. Also, it is possible that one or more of these companies might engage in practices contrary to the public interest.

Accordingly, the committee adopted a provision which would prevent these companies from suffering undue hardship as a result of the enactment of this legislation and, at the same time, provide an adequate safeguard against possible abuses and against the possibility of their deriving undue advantage by reason of their ownership or control of a bank.

The committee provided that these companies are exempt from the prohibitions against nonbanking activities or subsidiaries so long as the net worth of their bank does not exceed the greater of $3 million (which was mentioned earlier) or an amount equal to 25 percent of the combined net worth of the holding company and all of its subsidiaries, or $50 million, whichever is the lesser.

In addition, the Board is given the authority to waive the $50 million limitation where it determines that such action is consistent with the purposes of the act and is necessary or appropriate to avoid undue hardship to either the bank or its parent holding company or is necessary to meet a public need for banking services that is not otherwise available.

The Board is also given the authority to terminate or modify the exemption provided in regard to the 25 percent net worth test or to $50 million maximum, if the Board determines that such action is necessary to prevent undue concentration of resources, decreased competition, conflicts of interest, or unsound banking practices.

TIE-IN ARRANGEMENTS

Mr. SPARKMAN. The Senate bill included a broad provision against tie-in arrangements, which was the subject of some debate on the Senate floor and which is explained in Senate Committee Report No. 91–1084. There was no similar provision in the House bill. As stated in the Senate report:

The purpose of this provision is to prohibit anti-competitive practices which require bank customers to accept or provide some other service or product or refrain from dealing with other parties in order to obtain the bank product or service they desire.

This statement was repeated in the supplementary views of the author of the amendment, the Senator from Massachusetts, Mr. BROOKE.

Although the amendment was modified during the debate in the Senate, the modification was made in order to conform the language of the amendment to the explanation in the Senate report. Therefore that explanation should continue to be the basis for interpretation of the amendment.

This provision was accepted by the House conferees with an amendment requested by the Justice Department. The amendment, however, does not affect the substance of the provision. It provides that whenever any enforcement action is instituted by the United States which could be the subject of a private suit under this section, the running of the statute with respect to private suits shall be suspended during the pendency of the enforcement action and for one year thereafter.

STANDING TO SUE

The Senate bill contained a section providing for judicial review under section 9 of the Bank Holding Company Act in any case where a bank holding company sought to engage in a nonbanking activity pursuant to section 4. It provided that a party who would become a competitor of the applicant by reason of its entry into the business or activity involved should have the right to be a party in interest in proceedings before the Board, in order that it could have the right of judicial review under section 9.

The conference committee agreed to this provision, but also adopted language extending these rights to cases under section 3 of the Bank Holding Company Act, controlling acquisition of banking subsidiaries, and section 106 of this act, relating to exemptions from the tie-in provisions. It also included language providing for judicial review not only under section 9 of the act but "as otherwise provided by law"; that is, the Administrative Procedure Act.

There are a number of cases pending in the courts where competitors have been granted standing to sue under common law principles, because they have not been afforded the right to intervene in adversary proceedings by the agencies involved. By providing specific rights to intervene under this act, together with specific forums for judicial review, these cases in the future should follow the procedures set forth in section 105 of this bill and section 9 of the act. In other words, in order to challenge an unfavorable Board decision in court, the aggrieved parties must participate in the administrative proceedings before the Board.

OTHER PROVISIONS

Both bills eliminated the partnership exemption, but the Senate bill provided that the Federal Reserve Board could not find control solely by aggregating the interest of individuals or attributing their interest to the interest of the company. The House provision was agreed to and the limitation in the Senate bill on finding control by aggregating interest of individuals was eliminated.

The House bill terminated the exemption for trust department holdings of bank stock in determining whether a company controlled a bank. The Senate provision also terminated this exemption, but provided that the termination was eliminated only as to stock acquired after the date of enactment where the bank had sole discretion to vote the stock. This provision was modified to make it applicable only if the bank has the right, consistent with its obligations under a trust agreement, to divest itself of the voting rights and fails to exercise that right within a reasonable period not to exceed 1 year after enactment.

The House bill would have removed the exemption for labor unions and agricultural and horticultural organizations. The Senate bill would have retained this exemption and the conference committee agreed to the Senate provision.

The Senate bill exempted from section 4 of the act any one-bank holding company existing on June 30, 1968, 85 percent or more of whose voting stock was collectively owned on June 30, 1968, and continuously thereafter, by members of the same family. The conference committee agreed to the Senate provision.

The Senate bill exempted federally insured trust companies and mutual savings banks which own one bank in a State, if owned on the date of enactment of the bill and ownership is authorized by State law. This was agreed to by the conference committee.

The Senate bill amended the definition of a bank to exclude an institution which does not engage in the business of making commercial loans. This was the amendment offered in the committee by the Senator from Massachusetts (Mr. BROOKE) and it was accepted by the conference committee.

The House bill had a provision which would exempt from coverage any bank controlled through a company wholly owned by thrift institutions, if the bank restricts itself to the acceptance of deposits from thrift institutions, deposits from business of its owners, or deposits of public moneys. The Senate bill had no similar provision, but the House exemption was accepted by the conference.

Both bills had language giving the Federal Reserve Board additional authority to determine where control of a bank by a bank holding company exists. The provisions of the two bills were substantially similar in this respect but the conference committee adopted the Senate language with some technical changes.

Mr. President, I want to make these few personal remarks before closing. This piece of legislation has been a particularly difficult bill. It is one that has caused a great deal of controversy and one that has been given a great deal of publicity, some of which, I believe, has been unjust, and unfair.

Nevertheless, as I have already indicated, I believe we have reached fair and equitable conclusions in the confer-

ence report, and I feel we are presenting a good compromise for Senate approval.

In this connection I want to take this opportunity to thank and commend all the members of the Banking and Currency Committee who worked so hard and so long on this matter. I especially want to commend those members of the committee who served the Senate as conferees. They did a magnificent job.

I also want to express my appreciation to the Banking and Currency Committee staff—especially to Mr. Hugh H. Smith, assistant counsel, and Mr. John R. Evans, minority staff director—for the very able assistance they gave and the outstanding job they did for the committee—the Senate, and, I shall add, for the good of the country, on this measure.

Mr. BENNETT. Mr. President, I should like to associate myself with the Senator from Alabama in his remarks expressing his gratitude to Mr. Hugh Smith and Mr. John R. Evans. They did yeoman service in helping the Senate conferees maintain the Senate position in what at times became a very difficult and heated conference.

Mr. JAVITS. Mr. President, will the Senator yield to me for just 1 minute?

Mr. BENNETT. I should like first to pay my respects also to the Senator from Alabama, the chairman of the Committee on Banking and Currency. He served as chairman of that conference for the Senate side in a masterful manner. It was a very difficult conference, because there was very serious basic disagreement between the representatives of the two Houses over what the ultimate effect of this legislation should be. The members of the Senate conference group stood firmly behind his leadership, and because his leadership was firm, we were able to accomplish what the Senate sent us to do. I believe the Senate should be very pleased with the report agreed upon by the conference committee on H.R. 6778, and I recommend that the conference report be adopted.

It will be remembered that the Senate approved its bill by a vote of 77 to 1 on September 16. I think the Senate should be pleased, as I have said, because those who were appointed to represent the Senate position found themselves up against a very restrictive House bill.

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

Mr. BENNETT. I yield.

Mr. SPARKMAN. The Senator mentioned the vote on the Senate bill being 77 to 1. That one Member happened to be a very able and esteemed member of the conference committee, and he signed the conference report.

Mr. BENNETT. Yes. I am happy to agree with the chairman that he was a very effective member of the conference, and that makes it unanimous. I appreciate the Senator's putting that into the RECORD.

The final result is a good bill, because it maintains maximum flexibility for the Federal Reserve Board to determine the activities in which a bank holding company and its subsidiaries may engage, but at the same time protects those nonbanking industries in which banks are allowed to compete from undue competition by the banks.

Mr. President, I ask unanimous consent, at an appropriate place in my remarks, to have printed in the RECORD a letter from the Chairman of the Board of Governors of the Federal Reserve System, addressed to the Honorable WRIGHT PATMAN, chairman of the House Committee on Banking and Currency, and a letter addressed to me by the Assistant Attorney General, Antitrust Division of the Department of Justice, together with certain other quotations from the committee records.

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

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield?

Mr. BENNETT. I have the floor.

Mr. PROXMIRE. Will the Senator from Utah yield?

Mr. BENNETT. I am happy to yield.

Mr. PROXMIRE. Mr. President, I join the Senator from Alabama and the Senator from Utah in commending this conference report to the Senate. I do so as the one Senator referred to by the two distinguished Senators as the one Member of this body who voted against the one bank holding company bill when it passed this body. I think it had some very serious shortcomings, and I was strongly against it, but I think they were well worked out in conference, and the bill now before us is a good bill.

I wish to pay tribute also to the Senator from Alabama (Mr. SPARKMAN), who, as the Senator from Utah has said, showed great ability, as he always does in conferences. I am always amazed at the amount of knowledge the Senator from Alabama has in all these matters. The Senator from Utah is as tough a conferee as I have ever known, but he was constructive and cooperative. And, Mr. President, I also wish to say that Representative WRIGHT PATMAN, who felt very strongly on this bill and fought vigorously for the kind of bill that he wanted in the House of Representatives, was, of course, handling the conference as the chairman of the House position. I think that he agreed with us finally, after a great deal of discussion and debate, on a bill which will permit the banking industry to operate cooperatively and efficiently, and which does protect public interest.

Although there were wide and substantial differences between the House and Senate versions of this legislation, I believe the bill recommended by the joint House-Senate conference committee is fair compromise, and represents an effective approach to regulating one bank holding companies. Despite sharp differences of opinion over particular provisions of the bill, all the members of the conference committee cooperated in resolving those differences in a constructive manner.

Mr. President, perhaps the most important issue considered by the conference committee dealt with the extent to which bank holding companies may be permitted to engage in nonbanking activities. Under section 4(c)(8) of the present Bank Holding Company Act, bank holding companies may engage in activities "so closely related to the business of banking as to be a proper incident thereto." The House legislation deleted this language and said instead that bank holding companies would be permitted to engage in activities which are "functionally related to banking." However, the House bill also prohibited or substantially restricted the authority of bank holding companies to engage in six specified activities. While there is some confusion on the legislative history, this so-called "negative laundry list" apparently applied to commercial banks not part of a holding company structure. In the view of many, therefore, the House bill was substantially more restrictive than the existing law.

The Senate bill also permitted bank holding companies to engage in activities which were determined to be functionally related to banking. However, the Senate bill did not include the list of specified prohibitions contained in the House legislation. The Senate bill was therefore generally interpreted as a major liberalization of the range of activities permitted bank holding companies under the 1956 Bank Holding Company Act.

In resolving the differences over this issue, the conference committee agreed essentially to retain the standards of the existing 1956 Bank Holding Company Act. Under the legislation recommended by the conference committee, all bank holding companies would be permitted to engage in activities which are so closely related to banking as to be a proper incident thereto. This standard is quite similar to the existing 1956 Bank Holding Company Act, although the term "business of banking" was changed to read "banking." This change is intended to permit the Federal Reserve Board to determine a particular activity as closely related to banking, even though the activity in question may not be closely related to the specific activities of the affiliated holding company bank. For example, under the existing interpretations of the 1956 act, the Federal Reserve Board has permitted bank holding companies to establish mortgage banking affiliates, provided that the mortgages acquired by the affiliate were sold only to the holding company bank. The revised language recommended by the conference committee would permit the mortgage banking affiliates of bank holding companies to engage in a general mortgage banking business without confining their relationships to the holding company bank.

During the hearings before the Senate Banking and Currency Committee on the one bank holding company legislation, it was argued that the 1956 Holding Company Act was too restrictive and that a major liberalization was required. Although I repeatedly asked banking witnesses and the spokesmen for the bank regulatory agencies to list the specific activities which they felt were proper for bank holding companies and which were precluded by the 1956 Bank Holding Company Act, I was unable to receive a satisfactory response. About the only concrete example which was

supplied involved the case of a mortgage banking affiliate which I previously described. Because of the vagueness associated with the term "functionally related" I felt that the Congress should not effect a major change in the 1956 Holding Company Act until it had a more precise idea of the specific kinds of activities in which it was authorizing banking holding companies to engage.

In this connection, it is appropriate to discuss the reasoning behind S. 1052, which I introduced on February 18, 1969, to regulate one bank holding companies. This legislation brought one bank holding companies under Federal regulation; however, it did not change the present standards of the 1956 Holding Company Act under section 4(c)(8).

In introducing this legislation, I stated that we needed to have a more comprehensive reform of our entire banking system before effecting a major change in the nonbanking activities of bank holding companies. In this connection, the legislation called for the establishment of a national banking commission to determine to what extent existing banking laws and regulations promoted vigorous and healthy competition in the banking industry.

I am happy to note that after 2 years of intensive study and debate, the final solution which emerged is closely similar to the approach taken by S. 1052. The President has already appointed a Commission on Financial Structure to review the role which banks and other financial institutions need to play in our economy in the years ahead. In addition, the legislation recommended by the House-Senate conference committee contains essentially the standards contained under section 4(c)(8) of the present Bank Holding Company Act.

Perhaps a case can be made in the future that the 1956 Bank Holding Company Act is too restrictive and should be liberalized. Hopefully, the President's Commission on Financial Structure will review the matter in detail and make specific recommendations to the Congress. The Congress can then consider these recommendations along with the other reforms proposed by the Commission.

In the meantime, we have closed the major loophole contained in the 1956 Bank Holding Company Act and have brought one bank holding companies under Federal regulation.

Mr. President, I was also pleased to note that the House-Senate conference committee recommended the elimination of the so-called conglomerate exemption which would have exempted nearly 82 percent of all one-bank holding companies from effective regulation. This amendment was substantially at variance with the major purposes of the bank holding company legislation and was strongly opposed by the Federal Reserve Board and the Justice Department. Even the Treasury Department offered a belated recognition that the exemptions contained in the conglomerate amendment were too broad, although it is unfortunate that the Treasury position was not received until after the Senate debate on the one-bank holding company bill.

In any event, I am satisfied that the joint House-Senate conference committee has removed this major defect from the Senate bill. The legislation recommended by the conference committee does however permit Federal Reserve Board to exempt one-bank holding companies from section 4 of the 1956 act in those few cases where regulation would invoke a genuine hardship and where an exemption would not be substantially at variance with the purposes of the act.

In summary, Mr. President, I believe the House-Senate conference committee has developed a fair and equitable solution to the one-bank holding company problem. The legislation closes a major loophole in the Bank Holding Company Act, and provides additional protections to the competitors of bank holding companies who might be endangered by unfair competition. I believe it is a tribute to the excellent leadership of the Senator from Alabama and Congressman WRIGHT PATMAN, the chairman of the House Banking and Currency Committee, that this important legislation has been brought to the floor. I recommend that the Senate approve the conference report as reported by the House-Senate conference committee.

Several Senators addressed the Chair.

Mr. BENNETT. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BENNETT. I am happy to yield to the Senator from New York.

Mr. GOODELL. Mr. President, I commend the conferees on this conference report. I think they have done an excellent job. I think it is fair to the banks and I think it is fair to the public. I think it provides adequate protection under the circumstances, and I think it is not inflexible, as was the House legislation.

I should like to ask the chairman of the committee one question, for clarification. As to this question of related activities that are in the public interest: I take it that the intent of the conferees is that the burden is on the bank holding company not only to prove that the acquisition would provide benefits to the public, but also to show affirmatively that they outweigh the adverse effects involved with undue concentration of resources, decreased competition, conflicts of interest, or unsound banking practices.

I should like to divide the question. I think it is quite clear that there is a burden on the bank holding company to prove that it is in the public interest; but how much proof do they have to show that these adverse effects will not take place?

Mr. SPARKMAN. Mr. President, I do not believe we can measure it in terms of burden of proof. There would be a presentation to the Board, and it would surely have to meet the satisfaction of the Board that the good part would not be outweighed by the bad things.

In other words, what we have done here has been to make it flexible within the discretion of the Federal Reserve Board. We provide the right not only for the holding company to present its case, but for any aggrieved person or group or organization to have access to the Federal Reserve Board. When they set their regulations and their orders on any proceeding on any of these matters, there must be an opportunity for a hearing. And also, the Board is given the authority to make these determinations generally, as well as in individual cases.

In short, what we have tried to do has been to set general guidelines within which the Federal Reserve Board is to exercise discretion.

Mr. GOODELL. I appreciate the chairman's explanation. If I understand it correctly, then, there is no burden of proof, as such.

Mr. SPARKMAN. I would not call it so, because this does not have the formality which that would imply. There can be a hearing in which they are given the right to present their case, and I suppose the Federal Reserve Board will probably seek information to use in making its determinations.

Mr. GOODELL. Exactly.

Mr. SPARKMAN. The Board will certainly be able to seek information.

Mr. GOODELL. It is, in other words, it is up to the discretion of the Federal Reserve Board how they handle it, and what information is needed?

Mr. SPARKMAN. That is correct.

Mr. GOODELL. In assessing the benefits or the possible adverse effects?

Mr. SPARKMAN. That is correct.

Mr. GOODELL. I appreciate the explanation of the chairman.

I believe the public interest or benefit should be the most important consideration in any case and that the underlying component of the public interest is the maintenance of competition in each local market and the prevention of concentration of economic power.

In making its decision, I feel certain the Fed must strictly construe our requirement that the petitioning bank-holding company show in detail that the acquisition will be in the public interest. Only in this way will they clearly know the consequences of the acquisition and only with this knowledge can a fair, studied judgment be made.

Mr. President, this is a complex piece of legislation. Its primary purpose, which was agreed upon by all conferees, was to plug the loophole in the Bank Holding Company Act of 1956, which exempted from the coverage of that act holding companies owning only one bank.

However, once we agreed on this issue, there was substantial disagreement as to the implementation of this purpose, and to many other matters relevant to bank holding company legislation. Extended hearings were held in both the Senate and House, numerous bills were submitted for consideration, floor amendments were made in both Houses, and, generally, different approaches were taken by the Senate and House in the versions finally passed by each.

The House-passed one bank holding company bill, H.R. 6778, largely rewritten on the floor under the direction of Chairman WRIGHT PATMAN, was viewed by many observers as an extreme and unreasonable bill. It severely restricted the ability of bank holding companies to expand into bank-related activities. It prohibited bank holding companies from engaging in certain businesses including

insurance, travel agencies, accounting, data processing and equipment leasing. In doing so, it thereby served as a protective shield for those industries—fearful of competing with banks in the same business.

The action of the Senate on the one bank holding company legislation can be interpreted as an equal and opposite reaction to the more restrictive bill passed by the House. The Senate-passed bill, which I supported, provided the banking industry with a great deal of flexibility regarding expansion into bank-related activities.

One of the major reasons for the polarization of approaches between the two Houses of Congress was to afford the widest possible latitude for compromises in the conference committee. The conferees had a difficult job resolving the major differences between the two versions. It is my opinion that in the main the compromise reached and now submitted for approval of the Senate is a fair compromise. It is a bill that can neither be labeled probank or antibank but one which regulates the expansion of one bank holding company activity in the public interest.

The key issue in the bank holding company legislation was the amendment of section 4(c)(8) of the Bank Holding Company Act of 1956 which defines the permissible nonbanking activities and acquisitions of multibank holding companies.

The House seemingly liberalized the section 4(c)(8) language by requiring that acquisitions be "functionally related" to the business of banking. At the same time, however, bank holding companies were enjoined from such activities as securities, insurance, travel agencies, accounting, data processing and equipment leasing. These prohibitions became known as the "laundry list."

The Senate adopted similar "functionally related" language for section 4(c)(8). It did not, however, include a "laundry list" of prohibited activities thereby permitting the Federal Reserve Board a greater flexibility in determining what nonbanking activities and acquisitions would be permitted bank holding companies.

The conferees agreed on a more narrow definition of permissible acquisitions for bank holding companies. They adopted the language of the 1956 Bank Holding Act which permits acquisitions that are "so closely related to banking as to be a proper incident thereto . . ."

The Federal Reserve Board, which will administer the legislation, must also determine that the prospective acquisition will best serve the public interest.

The "public interest" test is designed to avoid the concentration and misuse of economic power. First, it requires the bank holding company to demonstrate that the acquisition would provide benefits to the public such as greater convenience, increased competition or gains in efficiency. These benefits must outweigh possible adverse effects such as undue concentration of resources, decreased competition, conflicts of interest or unsound banking practices. The conferees make it perfectly clear that expansion into a particular activity should be authorized only where affirmative advantages to the public can be reasonably established.

The conferees, however, did reject the notion of a laundry list which would put a statutory freeze on bank holding company activities in certain industries. I believe this was a wise omission.

In order to remain dynamic, the banking industry must be able to respond to the growing demand for varied financial services and the flexible financial technology. The industry cannot perform a modern financial function if it is statutorally bound by a list of permissible or nonpermissible activities which becomes out of date and precludes growth.

The provisions of the act permit the Board to sanction activities of bank holding companies which become proper by virtue of this act upon a showing by the applicant that they are in the public interest. On the other hand, it could restrict otherwise sanctioned activities to instances where they are in the public interest, and, in certain cases, also where necessary to prevent undue hardship.

In general, the Fed has been given the authority to approve acquisitions and make decisions based on the individual facts and circumstances of the applicant bank holding company and its impact in its market area. I believe this flexible, case by case approach is a preferred method of handling the complex questions relating to varied aquisitions.

I congratulate the conferees on the excellent work they have done to present us with a good compromise to a very complex issue. I support this conference report and applaud the efforts of my colleagues.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Will the Senator from Utah, who has the floor, yield to the Senator from New Jersey (Mr. WILLIAMS).

Mr. BENNETT. Mr. President, I would like to finish up this business first.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield to me?

Mr. BENNETT. No; I am sorry.

Mr. GRIFFIN. Mr. President, will the Senator from Utah yield to me for the purpose of asking a question?

Mr. BENNETT. I am happy to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. During the House consideration of the conference committee report on H.R. 6778, the following colloquy took place between Representative BROWN of Michigan and Representative PATMAN:

Mr. BROWN of Michigan. When the bill left the House of Representatives, as I recall, it had a prohibition against banks engaging in insurance activities. Is that prohibition still in the conference report?

Mr. PATMAN. Certainly it is, in substance.

Mr. BROWN of Michigan. Will the gentleman read the language?

Mr. PATMAN. I refer——

Mr. BROWN of Michigan. Mr. Chairman——

Mr. PATMAN. You asked me a question, and I would like an opportunity to answer. It so defines the companies that can be acquired as to limit it in a way that insurance companies or insurance agents cannot be made a part of a bank holding company.

Mr. BROWN of Michigan. Mr. Chairman——

Mr. PATMAN. Wait just a minute. You asked me a question and it is a good one.

Mr. BROWN of Michigan. If it takes this long, Mr. Chairman, I doubt that it has any value.

Mr. PATMAN. The acquisition must be so closely related to banking as to be a proper incident thereto. Therefore, it separates banking from nonbanking, and the insurance companies from nonbanking. I hope I have answered the gentleman sufficiently. (CONGRESSIONAL RECORD, December 16, 1970, page 41952.)

For the purpose of establishing legislative history, I should like to inquire of the distinguished Senator from Utah whether he agrees with Mr. PATMAN's interpretation of the conference committee's intent.

Mr. BENNETT. No, I do not agree. The Federal Reserve Board under the existing language of section 4(c)(8) for the past 14 years has approved insurance activities for bank holding companies, and there was no intent on the part of the conference committee to overrule these past decisions. Furthermore, the new language of section 4(c)(8) clearly gives the Federal Reserve Board broader discretion than it now has to make determinations of permissible activities. Federal Reserve Chairman Burns stated in his testimony before our committee that the Board believed that insurance was one of the activities bank holding companies should be permitted to engage in. Therefore, the Board will have ample authority to approve insurance activities, and we expect the Board will do so when it considers them proper.

I should like to ask the chairman, the Senator from Alabama, whether he agrees with this.

Mr. SPARKMAN. I feel that that is a fair statement. I suppose it might be well to point out, as the Senator from Michigan will recall, that the House bill had in it the so-called "laundry list." We decided in the Senate that that was not the way to handle the matter. First of all, we did not know whether we could include all of them. We do not know what the situation will be 10 years in the future, and so forth.

We reached a decision that the whole thing ought to be flexible, that it ought to be lodged in the hands of the Federal Reserve Board to carry out the guidelines we set. I think the answer would be that it is left in that manner.

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

Mr. BENNETT. I am happy to yield to the distinguished Senator from Pennsylvania.

Mr. SCOTT. The senior Senator from Utah is aware, I believe, that there are a number of instances where the ownership of a bank by a nonbanking enterprise has been most beneficial to both the bank and to the community served by that bank. One instance that I have in mind in particular is that of the ownership of the Hershey National Bank, in Hershey, Pa., by the Milton Hershey School, a school established in 1909 by the philanthropist Milton Hershey for the benefit of poor orphan boys. The Milton Hershey School also owns a controlling interest in the Hershey Foods Corp., successor to the Hershey Choco-

late Co., and in several other enterprises, such as Hershey Estates. Hershey Estates consists of a number of small service and utility companies and other local enterprises in Hershey which were owned by Hershey Chocolate Co., until 1927, and came to the school in 1918 with the stock of the chocolate company. The Hershey Foods Corp., of course, while it has a large factory in Hershey, has extensive manufacturing and sales operations throughout the North American continent, while the Hershey National Bank is a small community bank that serves the greater Hershey community of some 18,000 people.

The school's ownership of Hershey Foods and predecessor companies and of Hershey Estates dates back to 1918, and its ownership of the bank dates back to 1930. This common ownership has never resulted in any abuses. The Hershey National Bank does not loan money to any other element of the Hershey group. This policy, which has been in force for many years, is reinforced by the practicalities of the situation, for the bank is so small in comparison to Hershey Foods and the other components of the Hershey group that it is not in a position to service the credit needs of these entities, whose lines of credit are with large New York and Philadelphia banks.

Because the Hershey National Bank has always been a service bank that has always been most mindful of the needs of the Hershey community, not only would the school be penalized for no good reason if it had to sell the bank, but the community would suffer as well, since any sale would likely be to interests that were outside of the Hershey community—interests that might not be as responsive to the needs of the community as the present ownership of the bank is. I need not go in.to all the details of the school's ownership of the bank, for they are spelled out in a statement filed with the Banking and Currency Committee during its consideration of this legislation, and which appears as part of the record of that committee's deliberations. My inquiry of the chairman and the ranking minority member of the committee is how the conferees treated meritorious cases such as this. I remember that the bill as passed by the Senate contained an exemption that would enable the Milton Hershey School to retain its ownership of the bank, whereas the House-passed version of the bill would have required the Milton Hershey School to divest itself of the bank, or, at best, to have restricted the activities of its nonbanking components in order to keep the bank.

Mr. BENNETT. Let me assure the senior Senator from Pennsylvania that the conferees had situations such as that of the Milton Hershey School very much in mind during their deliberations on this legislation. The conferees recognized that requiring some one-bank holding companies to divest their bank could be against the public interest. As the Senator knows, during our hearings in the Senate, many companies which owned one bank but were primarily engaged in other activities made a case before the committee that they should be able to retain their bank and not be restricted in their ability to expand in other nonbanking activities. The bill approved by the conferees does not provide an outright exemption for any company. In line with the maximum flexibility which the Senate bill contained and which we felt was the very basis of legislation this year, we authorized the Federal Reserve Board to grant exemptions under certain conditions in instances where the bank was owned by a holding company prior to July 1, 1968. The basis for such exemptions were:

First, to avoid disrupting business relationships that have existed over long period of years without adversely affecting the banks or communities involved, or second, to avoid sales of small locally owned banks to purchasers not similarly representative of community interests, or third, to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests.

It would appear to me that the school should have no difficulty in qualifying for an exemption under either one of the first two criterias set forth under this provision.

Mr. SCOTT. I appreciate the Senator's explanation. Does the provision enable the Federal Reserve Board to impose restrictions upon the expansion and diversification program that Hershey Foods is embarked upon as the price of obtaining or keeping an exemption?

Mr. BENNETT. Not unless such conditions are necessary to protect the public interest. To impose restrictions that would impede the normal activities of a nonbanking firm so long as it is not operating against the public interest would be tantamount to eliminating the authority for the company to retain its bank since no company can be expected to delay normal growth or acquisition patterns for the period of time that would be necessary to receive clearance from the Federal Reserve Board. The authority which we have provided is intended to be used to avoid abuses. I have every confidence that the Federal Reserve Board will use it properly. If the Federal Reserve Board feels that the activities of a one-bank holding company would not be in the public interest if it retained its bank, it would not grant the exemption from divestiture permitted under this provision.

Mr. SCOTT. I thank the Senator.

Mr. BENNETT. Mr. President, I yield to the distinguished Senator from New Jersey.

Mr. WILLIAMS of New Jersey. I have one question I should like to ask the chairman of the committee.

Both the Senate and House bills contained, in section 4(c)(8), substantially similar language reiterating the existing law embodied in the Glass-Steagall Act which provides, essentially, for separation of commercial banking and the securities business. This language does not appear in the bill agreed to by the conferees. I wonder whether there was any intention to imply that the very securities-related activities forbidden to banks directly may nevertheless be engaged in by bank-holding companies or their nonbanking affiliates.

Mr. SPARKMAN. The answer to the Senator's question is that there clearly was not. As it now stands, the Glass-Steagall Act broadly prohibits both banks and their affiliates from engaging in what we commonly understand to be the securities business. There are some specific exceptions, of course, but I can assure you that we did not mean to enlarge or contract them here. We regarded that general prohibition as being so clearly applicable to the subjects of this bill as to make a restatement of it unnecessary. The provision to which you referred is already complicated enough. In short, we did not intend to amend or modify, directly or indirectly, any limitations on the activities of banks, bank-holding companies or any of their affiliates, now contained in the Glass-Steagall Act. If Congress is to change that longstanding, fundamental statement of public policy, we will have to do so in other legislation. I hope there is no longer any misconception on that point.

Mr. WILLIAMS of New Jersey. It is reassuring, indeed, to know that the Glass-Steagall Act has not been disturbed in any way and that there is no intention at all here to do so.

I might say, on more personal terms, that serving on the conference with the Senator from Alabama was an education, a great pleasure, and a privilege.

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

Mr. BENNETT. I yield to the distinguished Senator from California.

Mr. CRANSTON. Mr. President, I was delighted to learn some days ago that the Senate and House conferees had reached agreement on the final language of H.R. 6778, the Bank Holding Company Amendments of 1970, which embodied a very sound compromise on major differences between the House and the Senate bills. I confess, frankly, that I did not see how agreement could be reached on a sensible bill.

As a member of the Banking and Currency Committee, I know that Senator SPARKMAN, the able chairman of the committee, spent long hours working for legislation which would be in the best interest of both the banking and nonbanking communities. I want to pay tribute to him for the great work he did over so long a period, resulting in a bill that will serve the interests of the banking and the nonbanking communities in America.

I am also grateful to the distinguished Senator from Utah (Mr. BENNETT) for the very great and effective work he did on this measure, as well as the other conferees, including the Senator from Wisconsin who was so willing to work out sound agreements, along with others. They did a magnificent job for which I know myself and others are grateful.

Mr. President, there is one matter I should like to bring up, so that there will be no misunderstanding about it, and would like to ask the chairman one or two very brief questions about it.

The members of the Senate committee were almost in total agreement that the Federal Reserve Board should be given a great deal of flexibility to determine a bank holding company's scope of permissible nonbanking activities. Clear-

ly, the Senate version of section 4(c)(8) reflects the feeling of the Senate committee in this regard. Although the Senate version of section 4(c)(8) was modified by the conferees is it not true that the Federal Reserve and the Senate conferees feel that the modified language gives the Federal Reserve the desired degree of flexibility?

Mr. SPARKMAN. Exactly. As the Senator knows, that is what we kept plugging for during the long time that this was under consideration by the Committee on Banking and Currency, of which the Senator is a very able and helpful member.

Mr. CRANSTON. Truly great work was done in that respect.

Mr. SPARKMAN. I feel well pleased with the outcome of the conference, and I believe that I am joined by the distinguished Senator from Utah in that regard.

Mr. CRANSTON. May I ask this final question:

Would I then be correct in assuming that the Federal Reserve would have a great deal more flexibility under the conferees' version of H.R. 6778 than under the 1956 act?

Mr. SPARKMAN. That is correct.

Mr. CRANSTON. I thank the distinguished chairman of the committee very, very much.

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

Mr. BENNETT. I yield.

Mr. PERCY. I reiterated at the outset of the hearing before the Committee on Banking and Currency that I felt the legislation conceived in the House was ill-conceived and was done in a punitive sense. There was deep concern throughout the financial community that this type of legislation, in the atmosphere in which it was created, could be disastrous in its consequences to the banking community.

I therefore wish highly to commend the distinguished chairman, as well as the ranking minority member, for working out what I consider to be one of the most difficult and complex problems I have seen in my business and public life. Certainly the increased flexibility that is now provided the Federal Reserve System will protect the public but also will not in any sense be punitive against business decisions made in the light of existing circumstances at that particular time.

I would like to associate myself with those on the committee who are filled with admiration for the splendid job done by the Senate conferees.

Mr. BENNETT. Mr. President, earlier today, the distinguished Senator from Texas (Mr. TOWER), who is a member of the conference, placed a statement in the RECORD regarding the conference and its work. I understand that that statement indicates he agrees with the chairman and the Senator from Utah that the result of the conference was a good bill, and that we were able to eliminate many of what we considered to be weaknesses that the House bill contained, and that we provide greater flexibility for the Federal Reserve in handling the problems that it must now take up.

Mr. President, the junior Senator from Massachusetts (Mr. BROOKE) was unable to be here for this debate and has requested that I read a statement for him. Although the Senator from Massachusetts was not a conferee and, therefore, did not have an opportunity to have the intent expressed in the conference by the conferees he has had a great interest in, and has made a great contribution to the bill.

I ask unanimous consent that his statement be printed in the RECORD.

There being no objection, Senator BROOKE'S statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BROOKE

Mr. President, I rise today to discuss a subject which has received the careful attention of the Banking and Currency Committee and its counterpart in the House: the Bank Holding Company Act Amendments of 1970. This measure is before us today in the form of a series of compromises which were arrived at after lengthy bargaining by representatives of both Houses.

I wish to commend the very able and dedicated Chairman of our Committee, Senator Sparkman, for his role in shaping this piece of legislation. It was an extremely difficult task and, I believe, Senator Sparkman's leadership has earned the admiration and respect of his colleagues in the Congress, other governmental officials and industry leaders throughout the country.

I also wish to commend the distinguished senior Senator from Utah, Senator Bennett, for his leadership and guidance in this area. Chairman Sparkman and Senator Bennett represented both the Committee and the Senate superbly and distinguished themselves by obtaining a bill which, in many respects, addresses the elusive problem of bank holding company growth.

In 1956, Congress passed the Bank Holding Company Act which defined bank holding companies, controlled their formation and expansion, and required divestiture of nonbanking interests. The Act related, however, to bank holding companies owning two or more banks and did not seek to regulate one bank holding companies.

Since 1956, the number of one bank holding companies has grown from slightly over 100 to approximately 1,100 according to Federal Reserve Board figures. This growth in one bank holding companies has occasioned problems which President Nixon described on March 24, 1969, as disturbing and representing an "erosion of the traditional separation of powers between the suppliers of money—the banks—and the users of money—commerce and industry."

The President stated:

"Left unchecked, the trend toward the combining of banking and business could lead to the formation of a relatively small number of power centers dominating the American economy. This must not be permitted to happen; it would be bad for banking, bad for business, and bad for borrowers and consumers."

He went on to conclude that "banking must not dominate commerce or be dominated by it."

Implicit in the President's comments is the dilemma between equipping banks with sufficient flexibility to enable them to compete with other centers of financial power without, at the same time, concentrating such vast caches of economic resources in their hands that they are able to foreclose independent businessmen from competing in their fields of endeavor.

I introduced legislation earlier this year (S. 3823) which did not place arbitrary or indefensible limits on the scope of banking, but rather contained a flexible regulatory scheme embodying stringent competitive ground rules.

The Banking and Currency Committee, concluded that vast discretion should not be vested in bank holding companies and that their operations should be circumscribed by reasonable limits. I accepted this judgment and abide by it today; however, I believe that a fair and reasonable interpretation of certain provisions in the bill before us may lead to the conclusion that bank holding companies have, in fact, been circumscribed rather than given greater flexibility.

I refer specifically to the conference language of Section 4(c)(8). This section unfortunately embodies the basic test contained in the Bank Holding Company Act of 1956: whether the activities of a holding company are "so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Conferees specifically rejected the recommendation made by the Federal Reserve Board that the phrase "functionally related" govern the permissible activities of bank holding companies. While the ultimate meaning of the new language will probably be determined in the courts, it is fair to say that bank holding companies will carry a difficult burden in obtaining greater flexibility and, in fact, may experience problems with respect to already acquired subsidiaries as well as contemplated acquisitions.

The Conference version of Section 4(c)(8) appears to have embodied the concept contained in Senator Proxmire's earlier bill; namely that one bank holding companies be brought under regulation identical to that governing multi-holding companies, pending the results of a Presidential study of our financial institutions. This study which is now under way will presumably deal with the issues before us today and will provide additional guidance with regard to the permissible activities of bank holding companies. If the Commission determines that the standard contained in section 4(c)(8) is too rigid, we will have an opportunity to reexamine this issue at a later date.

As stated earlier, the legislation which I proposed contained a flexible regulatory scheme embodying stringent competitive ground rules, while at the same time eliminating arbitrary or indefensible limits on the scope of banking. Such an approach was justified on the ground that banks should be given sufficient flexibility to compete with other institutions as long as they did not abuse such authority. While the bill before us today raises serious questions concerning the flexibility of bank holding companies, it makes an important contribution to the competitive ground rules governing not only bank holding companies, but also individual banks and subsidiaries of such banks and bank holding companies, as well. I refer specifically to the antitying provision which was contained in the Senate bill and retained by the Conferees.

This provision represents a worthwhile addition to our antitrust laws and establishes per se illegality where a bank, a subsidiary of a bank, a bank holding company or a subsidiary of a bank holding company engages in express or implied tying. Despite opposition on my part, the original Senate provision was modified in such a manner as to preserve the right of banks to tie "traditional" banking services. Specifically, the anti-tying provision before us today has limited applicability where the transaction under consideration involves only loans, discounts, deposits or trust services carried on as part of the internal operations of a bank. These activities remain subject to traditional antitrust remedies and may, in fact, be actionable under this section if the Federal Reserve Board concludes that an "exception" is justified under the circumstances.

It is important to note that even where an exception is not granted, the right of banks to engage in express or implied tying of traditional banking services applies only where all of the components of a particular transaction involve two or more of the following banking services: loans, discounts, deposits or trust services.

It is important to note that per se illegality arises where either express or implied coercion is involved. Thus, where the totality of the circumstances indicates that the customer has not voluntarily entered into the transaction, but rather has been induced into doing so through coercion—either expressed or implied—the conduct under consideration is actionable under this provision. The new antitrust remedies thus developed will be an important supplement to existing remedies and will augment the Justice Department's powers under the *Fortner* decision and related cases.

This provision represents landmark legislation in that banks, bank holding companies, or subsidiaries thereof will hereafter subject themselves to per se illegality by requiring their customers to accept services offered by another department within the bank, or by an affiliate of the bank, bank holding company or subsidiary thereof. In addition, banks, bank holding companies and subsidiaries thereof would be prohibited from varying the consideration for banking services or other services as an inducement for still other services, when such actions result in anti-competitive consequences. Thus, a bank could not, in exchange for reducing the charge for courier services, vary the consideration for a loan or require the maintenance of deposits.

The anti-tying provision addresses Congressional concern over the tying of certain banking services with other banking services, as well as the coupling of banking services with non-banking services in such a way as to produce anti-competitive consequences. Enforcement powers pursuant to this section are vested in the Justice Department and private litigants, with the latter being entitled to treble damage relief.

The premise upon which remedies for private litigants are founded was set forth in the following statement by Assistant Attorney General McLaren of the Antitrust Division of the Justice Department:

"While we believe that the antitrust laws are applicable . . ., a serious question remains as to the extent to which they can practically eliminate [tie-ins] . . . in view of our limited enforcement resources. As a practical matter, many tie-in arrangements involving banks are so limited in their scope and involve such small amounts that they do not seem to justify the expensive and time-consuming efforts of full scale antitrust investigations."

Thus, this provision is designed to afford private litigants rights of action based on express or implied tying practices which heretofore involved little likelihood of redress.

In summary, a bank, bank holding company or subsidiary thereof will no longer be able—because of sheer economic power—to cause a borrower to use non-lending services in the hopes of improving his chances of obtaining credit from the bank. Similarly, other types of tying practices will be eliminated.

While I have some reservations about the flexibility provided under the instant legislation, I am satisfied that stringent competitive guidelines have been laid down to reduce, if not eliminate, anti-competitive practices in the banking industry. The establishment of these ground rules will provide a sound basis for healthy and sustained bank growth in the '70's. I commend the Senate Conferees for their efforts.

I have limited my discussion of this bill to two provisions for I feel the Conferees struck reasonable compromises on the remaining provisions in light of the circumstances involved. I hope this legislation has a beneficial, long-run effect on our economy and that sufficient flexibility has been retained to insure this result.

Mr. BENNETT. Now Mr. President, the Senate should be very pleased with the bill agreed upon by the Conference on H.R. 6778. I recommend that the conference report be accepted.

It will be remembered that the Senate approved by a 77 to 1 vote on September 16 of this year a bill which would bring virtually all one-bank holding companies under Federal Reserve Board regulation and which would increase the flexibility of the Federal Reserve Board in its regulation of bank holding companies.

SENATE BILL FLEXIBILITY RETAINED

I say that the Senate should be pleased with this conference report because the conferees who were appointed to represent the Senate position against the restrictive House bill were able to emerge from the conference with a conference report very close to the Senate bill. The final result is a good bill. It retains maximum flexibility for the Federal Reserve Board to determine the activities in which a bank holding company and its subsidiaries may engage but at the same time protects those bank-related industries with which banks are allowed to compete from unfair competition by banks. It also provides for a means through which the views of prospective competitors in fields related to banking may be fully represented before the Federal Reserve Board in proceedings to determine activities which are appropriate. In addition, such prospective competitors who may feel that the Federal Reserve Board has improperly decided against their interests are given standing to bring their case before the courts. The conference on this legislation was extremely difficult. Some strongly opposing views were represented in the two bills in conference, and the Senate was very fortunate in having conferees who were willing to stand for the Senate bill, regardless of pressures obviously intended to make it difficult for them to do so.

RESTRICTIVE BILL ADVOCATES DEFEATED

Having been so successful in the conference, the Senate conferees as well as some of the House conferees must have been surprised to read the statement of managers on the part of the House with regard to the conference report. It is very significant that three of the seven House conferees did not sign the managers' statement. Those who did sign the statement did not hide the fact in the House Committee, on the House floor, or in the conference committee discussions that they intended to make the Holding Company Act as restrictive as possible in its application to permissible bank related activities by covered companies.

The same Members who signed this managers' statement had earlier signed additional views when the House Banking and Currency Committee reported its bill. At that time they represented a minority of the House Banking and Currency Committee just as they later represented, a minority of the conferees who worked out this final bill. Failing to accomplish their stated purpose in the conference must have been a bitter disappointment to them. The fact that the managers' statement was not signed by some House Members of the conference makes it obvious that all the House conferees did not agree with the interpretation included in the House managers' statement. I regret that it is necessary to be critical of the statement, but the record should be made clear, and the apparent errors in the statement corrected.

REORGANIZATION ACT SOLVES INTERPRETATION PROBLEM

I take heart from the fact that the Legislative Reorganization Act of 1970 should put an end to any attempt by some Members of any conference to change the tone or meaning of conference reports to their own liking without consulting the conferees of the other body. Item 11, dealing with conference reports, states:

Conference reports

11. Each Senate and House conference report will be printed as a separate report of each House and will be accompanied by an explanatory statement, *prepared jointly* by the conferees of both Houses; it will be sufficiently detailed and explicit to inform their respective Houses as to the effect which the amendments or propositions contained therein will have upon these amendments or propositions to which they relate. If time for debate in the consideration of a conference report upon the Senate floor is limited, the time allotted for debate shall be equally divided between the majority and minority parties. (Sec. 125 (a) and (b).)

This reform is long overdue. I might add that a confidential record of conference proceedings as we have for executive committee sessions would also be helpful so that doubts about statements made could be officially resolved if necessary from the record. Even in the absence of such a record, in this case however, there is ample evidence to rebut many parts of the statement of managers on the part of the House on this conference report.

FINANCIAL, FIDUCIARY, OR INSURANCE DELETION IS IMPORTANT

The House managers' statement regarding the meaning of section 4(c)(8) is in my opinion a misconstruction of fact. It is hard for me to conceive of any way that an objective person present at the conference could interpret section 4(c)(8) as was done in the statement.

The first issue which the statement discusses is the removal of the phrase "of a financial, fiduciary, or insurance nature." The statement is supposed to trace history of this phrase through the legislative process and concludes that "it would be virtually impossible to fairly attribute any clear or precise intention to Congress in finally deleting the 'financial, fiduciary, or insurance' language." It goes on to quote from the Senate report and states that the report seems to concur that the language is redundant and has little substantive effect. During Senate committee discussions on this issue, it was decided to remove any reference to financial, fiduciary, or insurance. This was specifically debated by the committee in executive session and it was decided that this deletion would in no way restrict the flexibility of the Federal Reserve Board but in fact would increase it,

since some activities which may be in the public benefit, and which may be closely related to banking, may not be financial, fiduciary, or involve insurance. The language in the Senate report was intended to explain this decision by the committee. The Senate language stated:

The existing section 4(c)(8) refers to activities which are of a "financial, fiduciary, or insurance nature" as the criteria to be considered by the Board when considering an application to engage in a nonbanking activity. The new provision approved by the committee does not include reference to these types of activities. The deletion of these shall not be construed as indicating the committee's intent that these activities be no longer permitted. To the contrary, these activities are "functionally related to banking" and are included under the new provision adopted by the committee to the full extent that they were permitted under the existing act, and to such additional extent as the Board may find it desirable under the new criteria established.

DELETION BROADENS PERMISSIBLE ACTIVITIES

It should be noted that our committee report stated that these activities are to be permitted to the full extent they were permitted under the existing act and to such additional extent as the board may find it desirable under the new criteria established. The House statement makes a point of the fact that the word "functionally" in the Senate report was changed to "closely" in the final 4(c)(8) language contained in the conference report and makes the conclusion that activities permitted under section 4(c)(8) language as adopted by the conferees are the same whether the words "financial, fiduciary, or insurance" appear in the text or not. This is an interesting conclusion by conferees who tried repeatedly to have these three words incorporated in the conference report but failed.

I would like to discuss why in my judgment the conclusion in the managers' statement is erroneous. First of all, the final action on whether the words "financial, fiduciary, or insurance" were to be included in the conference report was not taken in the Senate committee or on the Senate floor, in the House Committee or on the House floor. The final action was taken by the conference committee. The conference committee considered this issue very carefully. The House conferees, early in the conference, offered to recede with an amendment in the nature of a substitute to section 4(c)(8) which reads as follows:

(8) shares of any company all the activities of which are or are to be of a financial, fiduciary, or insurance nature and which the Board after due notice and opportunity for hearing, by order has determined to be so closely related to the business of banking or of managing or controlling banks as to be a proper incident thereto and can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

The Senate conferees specifically rejected this proposal. The language was changed by the Senate and offered to the House conferees without the terms "financial, fiduciary, or insurance" included. The Senate conferees had agreed, as part of our proposal, to accept in place of "functionally related" the term "closely related" and also offered this alternative to the House. The House, in turn, requested that the words "of a financial or fiduciary nature" be inserted in line 7 of the proposed language between the words "benefits" and "to." The Senate rejected this language. The House conferees eventually receded to the Senate position. The discussion in the House managers' statement conveniently contains no mention of what happened in the conference committee on this issue. I believe, such a discussion destroys the point of view that the managers who signed the report were trying to convey.

NO SUBSTANTIAL DIFFERENCE BETWEEN "FUNCTIONALLY" AND "CLOSELY"

Since such a point is made in the statement of House managers about the meaning of "functionally related" and "closely related," I believe it is important to discuss the understanding of the conferees as to the difference in meaning between the terms. On page 22 of House Report 91–387 containing additional views which were signed by the four managers who also signed the statement of managers, we find their interpretation of the difference between "functionally related" and "closely related."

H.R. 6778 as originally introduced did not change the "closely related to banking" test found in the Bank Holding Company Act for determining what nonbank activities are permissible for bank holding companies. During consideration of the bill by your committee the test "functionally related to banking" was adopted. While many preferred to use the term "closely related to banking" it is not felt that there is any substantial difference between the two tests.

Congressman PATMAN made virtually the same statement on the House floor which I also quote:

Let me discuss for a moment in some detail H.R. 6778, as amended, and reported from the House Banking and Currency Committee. Under section 1(c) of the bill, section 4(c)(8) of the Bank Holding Company Act would be amended by modifying to some degree the basis on which the Federal Reserve Board determines what nonbank activities bank holding companies and their subsidiaries may lawfully be permitted to engage in. The new test for the Federal Reserve Board to apply is that the activity must be "functionally related to banking in such a way that its performance by an affiliate of a bank holding company can reasonably be expected to produce benefits to the public that outweigh possible adverse effects." While many members of the committee preferred to use the term "closely related to banking" instead of "functionally related to banking," it is not felt that there is any substantial difference between the two tests.

During the conference, signers of the managers' statement specifically referred to the additional views quoted from above as representing their views.

MEANING CONVENIENTLY CHANGES TO SUIT HOUSE MANAGERS

It is obvious to me from these conflicting statements that the conferees who now attempt to make a big point of the difference between the two terms are doing so in contradiction of what they said earlier and there is no doubt in my mind that it is being done in order to misconstrue the action of the conference committee. During the discussion of the conferees, some conferees suggested that the term "closely related" would provide even greater flexibility than the term "functionally related." After carefully considering the two phrases in the conference, however, Senate conferees agreed that neither term had been defined in any way which would make one term tighter or more restrictive than the other. I believe, an attempt at this point by four of 12 conferees to use the managers' statement to upset the clear legislative history regarding the terms "closely related" and "functionally related" and the deletion of "financial, fiduciary, or insurance" is very questionable, and cannot be considered to represent the understanding or intent of a majority of the conferees.

ATTEMPT TO BOLSTER DIFFERENCE BETWEEN "FUNCTIONALLY" AND "CLOSELY" STRAINED

The managers' statement goes to additional great lengths to try to make a point of the difference between the words "functionally related" as compared with "closely related" and uses statements made before the Senate Banking and Currency Committee in an attempt to uphold their reversed position. It is important to know that the term "functionally related" was used during the hearing to relate to a broader test in which many changes other than the term "functionally related" were contained. The term "closely related" was used to refer to present holding company law. To give to the specific terms themselves the entire meaning contained in the differences in the broader language to which the phrases referred is an inappropriate use of the terms. This conclusion is based not only on the discussion contained in the conference, which significantly is not referred to by the managers' statement, but on a letter sent to Congressman PATMAN by Chairman Burns of the Federal Reserve Board in answer to his specific question about language which the Congressman sent to Chairman Burns.

CONFEREES RELIED ON VIEW OF ADMINISTERING AGENCY

Chairman Burns in his letter of November 23, 1970 stated the Board's recommendations and discussed the Board's purpose in recommending the "functionally related" language. He also discussed the results the Board desired from that language just as he did before the Senate Banking Committee. I ask unanimous consent that Chairman Burns' letter be printed in full at this point in the RECORD.

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

CHAIRMAN OF THE
BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., November 23, 1970.

Hon. WRIGHT PATMAN,
Chairman, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing in reply to your letter of November 19, 1970, regarding H.R. 6778, the bank holding company bill.

The Board has recommended, and continues to recommend, that section 4(c)(8)

be revised to enable bank holding companies to engage, through nonbank subsidiaries, in any activity that is "functionally related to banking in such a way that its performance by an affiliate of a bank holding company can reasonably be expected to produce benefits to the public . . . that outweigh possible adverse effects . . ." Once a particular activity is determined to be permissible under this standard, Board approval would be required before a holding company could establish a subsidiary to engage in the activity. This screening process would identify the kinds of service related to banking that bank holding company systems are likely to be able to offer the public conveniently and efficiently, and would establish conditions under which entry into the authorized lines of business should enliven competition rather than diminish it.

These results could be reached by interpretation under the draft paragraph enclosed with your letter. However, less uncertainty and perhaps less need for future statutory revisions would be experienced if changes are made to solve two problems discussed in the next two paragraphs.

First, in the limited area in which applications have been approved under the existing section 4(c)(8), the Board has in the past interpreted the statute as requiring a "direct and significant connection" between the activities of the proposed subsidiary and those of the subsidiary banks of the holding company. But we do not believe it is desirable to unduly restrict entry by nonbank subsidiaries into markets that are distinct from those served by the subsidiary banks of the holding company. This position may lessen risks of tie-ins and is consistent with Governmental policies to promote competition. This was one of the reasons we recommended that "closely related" be changed to read "functionally related" in the statute; we wanted to avoid perpetuating the concept that a nonbank subsidiary's business must be related to the business of an affiliated bank. If the conferees prefer to keep "closely related" in the language of the statute, our objective would be served by changing the words "the business of banking or of managing or controlling banks" to read "banking or managing or controlling banks." We have in mind indicating that a nonbank subsidiary's activities should be related to banking (or managing or controlling banks) generally, rather than to the specific business carried on by the subsidiary banks of the particular holding company involved.

Second, we think the language of the statute should make clear that there are two tests to be satisfied in deciding whether nonbank subsidiaries of bank holding companies should be allowed to engage in a particular activity: (1) whether the activity is closely related to banking, and (2) whether it is a proper incident to banking, and that in applying the second test, the Board is to weigh the possible benefits to the public against the risks of adverse consequences. We believe that the language proposed by the House conferees might be misconstrued to apply three tests: (1) whether the activity is closely related, (2) whether it is a proper incident to banking, and (3) whether the benefits outweigh the risks. To avoid such a possibility, we suggest the following revision (which also incorporates the changes discussed above). Language in brackets would be omitted, language in italics would be inserted.

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined [to be so] are closely related to [the business of] banking or [of] managing or controlling banks [as to be] and are a proper incident thereto. [and] In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern."

I have offered these comments in the hope that the conferees are prepared to consider suggestions designed to help accomplish objectives with which we believe you agree. In the Board's judgment, the modification we suggest serve to clarify and are in harmony with the language attached to your letter.

The Board continues to feel it is highly important to enact one-bank holding company legislation this year, rather than start the process over again next year, with all the uncertainties and complications that might be invited. One member of the Board, Governor Robertson, would support the language attached to your letter without change.

Sincerely yours,

ARTHUR F. BURNS.

Mr. BENNETT. Mr. President, in the third paragraph, he stated:

These results could be reached by interpretation under the draft paragraph enclosed with your letter.

It is important to note that the draft paragraph enclosed with Congressman PATMAN's letter to which Chairman Burns referred included the "closely related" language as well as the "proper incident" language which the House managers attempt to construe as not providing a broadening of section 4(c)(8). This letter from Chairman Burns was not just his own opinion but the result of a Federal Reserve Board meeting to consider the Patman language. Thus, it is clear that the Federal Reserve Board which must make the determination under the final language decided that even under the Patman language which was rejected by the conferees, the Board would have had the flexibility which it had intended by the "functionally related" language which Chairman Burns had earlier recommended to the Banking and Currency Committee of the Senate.

JUSTICE DEPARTMENT STATES 4(c)(8) LANGUAGE MORE FLEXIBLE

In addition to the letter from the Board of Governors of the Federal Reserve System, in answer to my request, I received a letter on November 24 from Richard W. McLaren of the Department of Justice, commenting on the language sent to the Federal Reserve Board with the Patman letter and also on the reply which the Board sent to Congressman PATMAN and the other conferees. I ask unanimous consent to have printed in the RECORD a copy of that letter.

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

DEPARTMENT OF JUSTICE,
Washington, D.C., November 24, 1970.

Hon. WALLACE BENNETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENNETT: I am writing in reply to your request for our comments on Chairman Burns' letter of November 23, 1970. That letter on behalf of the Federal Reserve Board was in response to a letter from Chairman Patman (which we have not seen) regarding Section 4(c)(8) of the Bank Holding Company Act of 1956 as it would be amended by H.R. 6778. Chairman Burns' letter indicates that he was commenting on the following suggested language:

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing, has determined to be so closely related to the business of banking or of managing or controlling banks as to be a proper incident thereto and can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern."

In general, we concur in Chairman Burns' analysis of this proposed language. We believe that there is considerable ambiguity as to its practical application and that, as a result, uncertainty as to the appropriate areas of bank activity would remain until clarified by extensive litigation.

We entirely agree with the Federal Reserve Board's belief that ". . . the language of the statute should make clear that there are two tests to be satisfied in deciding whether nonbank subsidiaries of bank holding companies should be allowed to engage in a particular activity: (1) whether the activity is closely related to banking, and (2) whether it is a proper incident to banking, and that in applying the second test, the Board is to weigh the possible benefits to the public against the risks of adverse consequences. We believe that the language proposed by the House conferees might be misconstrued to apply three tests: (1) whether the activity is closely related, (2) whether it is a proper incident to banking, and (3) whether the benefits outweigh the risks." To avoid this uncertainty the Board proposed the following revision (with language in brackets to be omitted and language in italics to be inserted):

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined [to be so] *are* closely related to [the business of] banking or [of] managing or controlling banks [as to be] *and are* a proper incident thereto. [and] *In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company* can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern."

We regard this proposed revised language as very much preferable to that submitted to the Board in that it clarifies and simplifies the test to be applied. It is also preferable to the present statutory language of Section 4(c)(8) since it would give the Board greater flexibility to approve bank entry into other markets where the Board finds that such entry is supported by the public interest consideration set forth in the statute.

In our view, the same essential compromise could be struck in clearer terms by deleting all reference to "proper incident" and making clear explicitly that the Board is apply-

ing a two-fold test involving both the closeness to banking and the public interest considerations. This could be most appropriately accomplished, we believe, by striking the word "functionally" from Section 4(e)(1) of the House passed bill and substituting therefor the word "closely." This approach, which admittedly involves a greater departure from the language submitted to the Board for comment, does seem to us to be somewhat clearer and simpler than the Board's suggested revision of that language. We understand that such an approach would be acceptable to the Board, and that they felt constrained to adhere more closely to the suggested language in the proposed revision. By the same token, if such adherence is considered essential, we repeat that we subscribe to the Board's suggested language as a distinct improvement over the present law and the language submitted to it.

We appreciate the opportunity of commenting on the important issues raised in Chairman Burns' letter. Please feel free to circulate our comments among the other conferees as the position of the Department of Justice.

Sincerely yours,

RICHARD W. MCLAREN,
Assistant Attorney General,
Antitrust Division.

Mr. BENNETT. Mr. President, Mr. McLaren said:

In general, we concur with Chairman Burns' analysis of this proposed language. We believe that there is considerable ambiguity as to its practical application and that, as a result, uncertainty as to the appropriate areas of bank activity would remain until clarified by extensive litigation.

In referring to the proposed revised language of the Federal Reserve Board, he said:

We regard this proposed revised language as very much preferable to that submitted to the Board in that it clarifies and simplifies the test to be applied. It is also preferable to the present statutory language of section 4(c)(8) since it would give the Board greater flexibility to approve bank entry into other markets where the Board finds that such entry is supported by the public interest consideration set forth in the statute.

Very significantly, the Justice Department letter added:

In our view, the same essential compromise could be struck in clearer terms by deleting all reference to 'proper incident' and making clear explicitly that the Board is applying a two-fold test involving both the closeness to banking and the public interest considerations. This could be most appropriately accomplished, we believe, by striking the word 'functionally' from Section 4(e)(1) of the House passed bill and substituting therefor the word 'closely.' This approach, which admittedly involves a greater departure from the language submitted to the Board for comment, does seem to us to be somewhat clearer and simpler than the Board's suggested revision of that language. We understand that such an approach would be acceptable to the Board, and that they felt constrained to adhere more closely to the suggested language in the proposed revision. By the same token, if such adherence is considered essential, we repeat that we subscribe to the Board's suggested language as a distinct improvement over the present law and the language submitted to it.

I do not know how anyone could interpret the language agreed upon by the conference committee as being essentially the same as that contained in present law after reading this interpretation by the Justice Department and the Federal Reserve Board. The letters were fully discussed by the conferees and no conferee questioned the interpretation given by either the Justice Department or the Federal Reserve Board. On the other hand, the action taken by the conferees was based on an understanding that even the language submitted by Mr. PATMAN to Chairman Burns would be sufficient to meet the flexibility desired by the Federal Reserve Board as demonstrated in testimony before the Senate Banking and Currency Committee.

CONFEREES ACCEPT CLARIFIED LANGUAGE ON 4(c)(8)

Senate conferees and three House conferees were of the opinion that those who eventually signed the managers' statement desired the conferees to approve language which was so ambiguous as to require "clarification by extensive litigation" as mentioned in the Justice Department's letter. On the basis of that opinion, the Senate conferees demanded that the language be clarified as requested by the Federal Reserve Board and a majority of the House conferees finally agreed to the clarified language. I ask unanimous consent that the clarified language be printed in the RECORD.

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

"(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern;";

Mr. BENNETT. Mr. President, despite that deliberate action by the majority of the conferees, based on the interpretation of those whom we considered to be the experts in this matter, the Federal Reserve Board and the Justice Department's Antitrust Division, we now read in the managers' statement that—

The decision of the conferees to reject the "functionally related test" advocated by those witnesses who argued for a more liberal and expansive approach by the Federal Reserve Board in authorizing nonbank activities for bank holding companies is intended to be construed to mean that the Congress was not convinced that such expansion and liberalization was justified.

We also read from the managers' statement that—

Consequently the Congress intends that those activities which the Board and other witnesses claim would have been permitted under the "functionally related test" are not authorized by our decision to retain the "so closely related" test, which is considerably less expansive and liberal than the rejected "functionally related test".

If four of the 12 conferees want to save face when confronted with a defeat, that may be their privilege, but in my opinion they have no right to misconstrue the intention of the other conferees and the Congress. I believe the record speaks for itself.

"PROPER INCIDENT TO BANKING" TEST IS BROADER THAN "INCIDENTAL POWERS" CLAUSE

As part of the language making 4(c)(8) broader and more flexible, a new test is provided for determining if an activity is a "proper incident to banking." In order to make such a determination, the Federal Reserve Board is to weigh the possible benefits to the public against the risks of adverse consequences. This is a complete departure from past court decisions interpreting the incidental powers of banks under various banking statutes. These court decisions have tended to place a restrictive interpretation on the "incidental powers clause." The new public interest concept embodied in the revised section 4(c)(8) makes it perfectly clear that the Board is not bound in its decisions by court decisions relating to the incidental powers of banks. The Board has much broader discretion. Both former Federal Reserve Board Chairman Martin and present Federal Reserve Board Chairman Burns have given a general description of areas in which banks might be allowed to compete under this new concept.

In his testimony before the House Committee on Banking and Currency, former Federal Reserve Chairman Martin stated:

The Board believes that a bank holding company should be permitted to acquire a subsidiary, subject to regulatory approval and supervisions, to engage in "related" activities without showing such a close connection between the business and that of a subsidiary bank. Permissible acquisitions might include, for example, companies engaged in the business of lending funds on their own account; investing in equities, subject to careful limitations, to assist in the economic development of low-income areas or to meet other pressing needs for financing that cannot be met adequately through debt instruments; acting as insurance agent or broker or as insurer in connection with extensions of credit by other subsidiaries of the holding company; providing accounting or data processing service; acting as fiduciary; and acting as travel agent.

In a similar vein, Federal Reserve Chairman Burns testified before the Senate Committee on Banking and Currency as follows:

By weighing the prospects of realizing such benefits against the risks of undesirable consequences, a judgment may be formed about the kinds of services bank holding company subsidiaries should be authorized to provide. In the Board's judgment, authorized subsidiaries might well include those engaged in lending funds on their own account or for the account of others; acting as investment adviser; operating a "no-load" mutual fund; leasing equipment where the lease is really a form of security for financing; performing insurance functions in connection with services offered by other subsidiaries; providing bookkeeping or data processing services; originating, servicing, and selling mortgage loans; acting as travel agent or issuing travelers checks; and making equity investments in community rehabilitation and develop-

ment corporations engaged in providing better housing and employment opportunities for people of low or moderate incomes.

In approving activities that the Board has determined to be closely related, the Board need only determine that the prospects of benefits to the public outweigh the risks. The House managers' statement dwells at length on the risks but fails to discuss the positive aspects of the new test. This is in keeping with what I consider to be the negative tone of the entire statement. It should be emphasized, however, that the Federal Reserve Board is given discretion to approve an activity that may have adverse effects if it determines that these may be outweighed by expected benefits such as greater convenience, increased competition, or gains in efficiency.

OTHER CHANGES MADE IN SECTION 4(C)(8)

In addition to the major changes thus far discussed dealing with the intent of the conferees in broadening the language of 4(c)(8), other changes were also made. These are not necessarily less important but I do not believe they have been misconstrued to the same degree in the statement of managers and therefore a brief discussion should suffice. The words "business of" were eliminated from the phrase "business of banking." Federal Reserve Chairman Burns stated in his November 23, 1970, letter to Congressman PATMAN that as a result of this phrase:

The Board has in the past interpreted the statute as requiring a "direct and significant connection" between the activities of the proposed subsidiary and those of the subsidiary banks of the holding company. But we do not believe it is desirable to unduly restrict entry by nonbank subsidiaries into markets that are distinct from those served by the subsidiary banks of the holding company. This position may lessen risks of tie-ins and is consistent with Governmental policies to promote competition. This was one of the reasons we recommended that "closely related" be changed to read "functionally related" in the statute; we wanted to avoid perpetuating the concept that a nonbank subsidiary's business must be related to the business of an affiliated bank. If the conferees prefer to keep "closely related" in the language of the statute, our objective would be served by changing the words "the business of banking or of managing or controlling banks" to read "banking or managing or controlling banks." We have in mind indicating that a nonbank subsidiary's activities should be related to banking (or managing or controlling banks) generally, rather than to the specific business carried on by the subsidiary banks of the particular holding company involved.

The conferees agreed with this interpretation in altering the language.

The Board is also authorized to differentiate between activities commenced de novo and activities commenced by the acquisition of a going concern. It is expected that the Board will implement this authority by providing a simplified procedure with virtually automatic approval of permissible activities commenced de novo. Such a procedure would help reduce the workload of the Board, speed up the decisionmaking process, and increase competition in areas where additional competition is in the public interest.

The mandatory hearing requirement of present 4(c)(8) is also repealed. Under the present language, the Board is required to hold a formal hearing on each application regardless of whether or not such a hearing is desired by the Board or the applicant. The new language provides an "opportunity for hearing" and eliminates the necessity for time-consuming and expensive hearings when they are unnecessary.

PRESENT SECTION 4(C)(8) HAS BEEN LITTLE USED

Much ado has been made by the statement of managers as to whether these changes in section 4(c)(8) broaden the present law or narrow it. It seems to me that this argument misses the major point. The conferees have taken a little used provision of law and made those changes and only those changes needed to make it more flexible and useful. One reason it has been applied narrowly in the past is that few applications have been filed under it because it required a formal hearing on each application. The new bill changes this. Once the Board on the basis of a hearing, if it is requested, determines that an activity should be permissible, applications by holding companies to establish subsidiaries to engage in permissible activities will be screened to make sure they will not diminish competition, but approvals may be granted automatically under a notification procedure where the proposal meets guidelines set up to identify situations where entry would be procompetitive. Approvals may be granted by the Board as the result of a regulation or order. Under present law, there is no provision for approval by regulation.

NEW GROUND RULES

We can expect, then, that the revised section will be used to a greater extent than the existing section has been used in considering and screening applications for entry into related activities. The ground rules that finally emerge will depend, of course, on the evidence developed during the hearings on which the Board's new regulations will be based. The Board's preliminary views, as presented in the testimony on this bill referred to earlier, are that—

Authorized subsidiaries might well include those engaged in lending funds on their own account or for the account of others; acting as investment adviser; operating a "no-load" mutual fund; leasing equipment where the lease is really a form of security for financing; performing insurance functions in connection with services offered by other subsidiaries; providing bookkeeping or data processing services; originating, servicing, and selling mortgage loans; acting as travel agent or issuing travelers checks; and making equity investments in community rehabilitation and development corporations engaged in providing better housing and employment opportunities for people of low or moderate incomes.

These views may change, of course, after the Board has considered the facts presented at administrative hearings. And the ground rules will inevitably change as times change. The important point is that this bill provides the Board with the kind of authority it has said it needs to establish guidelines under which bank holding companies can offer services to meet developing public needs.

ACTIVITIES "GRANDFATHERED" BY STATUTE

The conference report contains the authority granted in the Senate bill for one bank holding companies to retain all activities in which they were engaged on or before June 30, 1968. This conferred right was modified, however, by granting authority to the Federal Reserve Board to require divestiture in individual cases if it determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. The actual language accepted by the conference committee provides:

That a company covered in 1970 may also engage in those activities in which directly or through a subsidiary (i) it was lawfully engaged on June 30, 1968 (or on a date subsequent to June 30, 1968 in the case of activities carried on as the result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and (ii) it has been continuously engaged since June 30, 1968 (or such subsequent date). The Board by order, after opportunity for hearing, may terminate the authority conferred by the preceding proviso on any company to engage directly or through a subsidiary in any activity otherwise permitted by that proviso if it determines, having due regard to the purposes of this Act, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; . . .

This confers by law an exemption from the divestiture requirements of the act. This exemption can in unusual cases be removed by the Federal Reserve Board if necessary. In order to remove this right to retain presently owned shares and continue to engage in activities in which such companies now engage, however, the Federal Reserve Board is required to establish that such action is necessary to avoid the antitrust and unsound banking problems listed in the language.

BURDEN OF PROOF ON BOARD TO SHOW NEED FOR DIVESTITURE

The House statement of managers completely misconstrues this "grandfather" clause in claiming that the Board will determine which activities it will allow to be continued. It also states:

A decision by the Board to withdraw these benefits is required by the Act unless it can be established that there would not be undue concentration of resources, decreasing of unfair competition, conflicts of interest or unsound banking practices, . . .

What the House managers have apparently tried to do in the report is to reverse the burden of proof so that the right which the bill confers would be removed. There is nothing in this act requiring the Board to withdraw the "grandfather" privilege from any firm. The fact is that the Board cannot withdraw this right unless there is no other way to avoid the problems listed in this section. If one looks carefully at the items which must be considered, it will be found that they are antitrust and banking problems. There is already suf-

ficient antitrust law with which the problems of concentration can be solved and therefore it is doubtful whether the Board would ever use this section to require divestiture on the basis of antitrust considerations. The other considerations are banking practices or conflicts of interest. The Federal Reserve Board and the other Federal bank supervisory agencies presently have considerable authority to prevent banks and their affiliates from engaging in these practices. Therefore, there is little or no need to use this section for that purpose. It would be very difficult, therefore, for the Board to establish the fact that the use of authority granted in this provision is necessary to avoid the situations to which the provision speaks.

The House managers' statement claims that the test required by the Board on the "grandfather" clause is similar to that to be used by the Board in applications under the new section 4 (c)(8) of the act, that is, the so-called public benefits test. The language of the conference report does not support that claim. The House conferees, in fact, offered a provision to the Senate which contained the public benefits test of section 4(c)(8) and the Senate rejected that alternative. There is no requirement under this provision that any benefits be shown in order for a company to retain the activities "grandfathered" under the provision.

Further, in the managers' statement, the four House conferees claim that—

Board should within a reasonable amount of time examine all one bank holding companies created prior to July 1, 1968, to determine whether, under the stated test, any of them are entitled to exemptions from the Act.

Let me make it clear as the conference report does that all one bank holding company acquisitions prior to July 1, 1968, are granted by law an exemption from divestiture. This entitlement is not up to the Federal Reserve Board.

The managers' statement also claims that—

Board should give no presumption of entitlement to exemption to a one bank holding company in the future, . . .

The Board does not need to give a presumption of entitlement since the entitlement is a matter of right by law and the Board must prove that the entitlement creates problems which cannot be corrected by other means before it can remove the entitlement.

The House managers' statement, discussing the "grandfather" clause activities authorized by law, states:

The Board shall by its order impose such terms and conditions on the continuation of that activity so as to provide safeguards against future dangers that may arise from the conduct of that activity.

This requirement appears only in the managers' statement. No such requirement is contained in the conference report.

ACQUISITIONS DURING PERIOD ALLOWED FOR DIVESTITURE

The Senate provisions dealing with permissible acquisitions during the 10-year divestiture period by either a bank holding company which divests itself of now-approved activities under section 4 of the act or a bank holding company which disposes of its bank within the required period were retained. Such companies may continue, during the divestiture period, to engage in any activities they choose so long as the privilege is not abused. The Federal Reserve Board is authorized to prescribe conditions if necessary to eliminate abuses. The Board obviously could not be required to approve all new activities of such companies, nor is it intended that they should.

The original Senate bill language provided for an exclusion during the divestiture period for any—

Shares retained or acquired, or activities engaged in, by any company (covered in 1970), or by any subsidiary thereof, if such company—

(A) within the applicable time limits prescribed in subsection (a)(2) of this section (i) ceases to be a bank holding company, or (ii) ceases to retain direct or indirect ownership or control of those shares and to engage in those activities not authorized under this section; and

(B) complies with such other conditions as the Board may by regulation or order prescribe;

The conferees amended the Senate version by striking "covered in 1970" and inserting in its place "which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on the date of such enactment," to assure that any bank holding company, regardless of when it acquired its bank, up until the date of enactment, would be granted a 10-year divestiture period. This applies whether the one-bank holding company chooses to divest itself of either its bank shares or of its shares in nonbanking activities. I ask unanimous consent to have printed in the RECORD that portion of the committee report which explains the intent of the provision.

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

As was previously pointed out, the divestiture period will effect two types of companies. The first type will be the company which will divest its bank and cease to be a bank holding company. The second type of company is that which will be required to divest a nonbanking subsidiary or cease to engage in a nonbanking activity in order to comply with the grandfather clause, or in order to bring its entire operation under all provisions of the Bank Holding Company Act.

In the case of the first type, the committee felt that there was no compelling reason to prevent by statute such companies from making any acquisitions or engaging in any activities during the period of time between the passage of the legislation and the time that the companies were ultimately able to effectuate divestiture of their bank as long as the purposes of the act are not evaded.

In the case of the company making nonbanking divestitures the committee is aware that, in many instances, a more efficient divestiture is possible if the company is able to acquire additional assets to package with the asset or subsidiary to be divested. The committee wishes to insure that required divestitures are made as quickly as possible, as efficiently as possible, and with as little economic loss to the divesting company as possible.

Accordingly, the committee adopted a provision which will allow any company covered by this legislation to retain or acquire whatever shares, or engage in whatever activities, it wishes so long as, within the applicable divestiture period, it either ceases to be a bank holding company or ceases to retain direct or indirect ownership or control of shares or to engage in activities that are not authorized under the applicable section of the act.

EXEMPTIONS IN "HARDSHIP CASES"

Mr. BENNETT. Mr. President, in addition to the right granted to all one-bank holding companies to retain and continue activities in which they were engaged on June 30, 1968, the conference report contains a so-called conglomerate provision under which the Federal Reserve Board is given permissive authority under such conditions as it deems necessary to protect the public interest, to exempt any bank-holding company owning one bank prior to July 1, 1968, from divestiture requirements and restrictions in section 4 of the act on engaging in new nonbank activities. During our hearings in the Senate, many companies which owned one bank but were primarily engaged in other activities made a case that they should be able to retain their bank and not be restricted in their ability to expand in other nonbanking activities. The bill approved by the conferees does not provide an outright exemption of this type for any company. In line with the maximum flexibility which the Senate bill contained and which we felt was the very basis of legislation this year, we authorized the Federal Reserve Board to grant exemptions under certain conditions in instances where the bank was owned by a holding company prior to July 1, 1968. The basis for such exemptions were first, to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved; or second, to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests; or third, to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests.

Examples of the kind of companies which the conferees had in mind in accepting this provision are the Milton Hershey School which owns controlling interest in Hershey Foods Corp., and the Hershey National Bank, and the Goodyear Tire & Rubber Co. owning the Goodyear Bank. Significantly, these two one-bank holding companies were described though not named in the House managers' statement and by various speakers on the House floor as examples of companies for which this provision is intended; other companies may, of course, also qualify.

Mr. President, in conclusion let me say again that this is a good bill. The many hours of effort expended by the members of our Banking and Currency Committee have been well rewarded. This

conference report certainly deserves the support of the Senate.

Mr. SPARKMAN. Mr. President, I move adoption of the conference report.

The motion was agreed to.

HOUSING AND URBAN DEVELOPMENT ACT OF 1970—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 19436) to provide for the establishment of a national urban growth policy, to encourge 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. I ask unanimous consent for the present consideration of the report.

The PRESIDING OFFICER (Mr. BELLMON). 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 Dec. 17, 1970, pp. 42299–42314, CONGRESSIONAL RECORD.)

Mr. SPARKMAN. Mr. President, I should like to make a statement on the conference report on the housing bill.

Before I comment on the details, I want to say how pleased I am with the fine job done by the members of the conference committee, of both Houses of Congress.

In resolving the differences, the conference committee worked together with speed, and in a spirit of good will and cooperation. However, as is usually the case there were compromises between the two sides. On the part of the Senate, we remained adamant on several items, and the same thing was true with the House. All in all, the conferees were satisfied that the final product represented the best interests of all concerned, and I am pleased to report that every member of the conference committee signed the report.

The Senate conferees were quite satisfied with the results of the conference.

This is an omnibus housing bill which broadly covers the many housing and urban development programs under the Federal Government including programs involving mortgage finance. The bill, as finally approved by the conferees, has nine titles. I would like to give a brief explanation of some of the principal differences in each of these nine titles on provisions which were in the Senate bill but were rejected by the conference committee.

TITLE I—MORTGAGE CREDIT

This title basically involves the extension of Federal Housing Administration programs already on the books. In addition to extending the authority for continuation of the programs, new funds were authorized for many of the programs through fiscal year 1972. Most important of these are the interest subsidy programs under section 235 and section 236 of the National Housing Act. The conferees agreed to increase the authority by $25 million for each of these programs for fiscal year 1971, and by $30 million for fiscal year 1972, making a total available authority of $150 million for fiscal year 1971 and $200 million for fiscal year 1972. This level of funding is a reasonable compromise between the two bills and should help meet the outstanding demand for these funds and keep us on schedule toward meeting the national housing goals.

Other provisions in the title are to amend and perfect existing FHA laws to make them more effective in carrying out the intent of Congress.

Among the significant provisions agreed to by the conferees was one in the Senate bill earmarking 10 percent of the subsidy funds under section 235 for use in connection with rehabilitated housing and one which would authorize the Secretary to use up to 30 percent of the section 235 subsidy funds for existing housing. Another provision in the Senate bill not in the House bill would authorize the Housing and Urban Development Secretary to compensate purchasers of section 235 subsidized existing housing in case of serious structural defects. The provision was agreed to by the conferees with an amendment giving the Secretary of Housing and Urban Development authority to require the seller of the property to agree to reimburse the Secretary for such compensation. The conferees, being aware of certain inequities in the administration of the section 235 program, urged the Secretary to tighten up his supervision, particularly in connection with limiting eligibilty to lower income families who could not afford to obtain decent homes without benefit of the subsidy.

A Senate provision which would have lowered down-payment requirements for FHA section 203(b) unsubsidized housing was not agreed to by the conference committee primarily because the House conferees were adamant in their stand that the provision was only a partial answer to the whole downpayment issue and that more time would be given next year to provide a more balanced and considered response to this issue.

TITLE II—PUBLIC HOUSING, URBAN RENEWAL, AND HOUSING ASSISTANCE PROGRAMS

This title provides new contract authority for public housing, urban renewal and other housing assistance programs. It also makes certain changes in existing law to improve the administration of these programs.

The conferees agreed to increase the public housing contract authority by $150 million for fiscal year 1971 and by $225 million for fiscal year 1972, making available authority of $320 million for fiscal year 1971 and $225 million for fiscal year 1972. The conferees further agreed to earmark $75 million of the 1971 authority for the Secretary to use exclusively for operating and maintenance expenses authorized by section 210 of the approved bill.

One provision in both bills but in different format involved authority for the Housing and Urban Development Secretary to finance congregate housing or dormitory housing under the public housing program and the FHA programs. The proposal was agreed to with an amendment to limit eligibility to the elderly, displaced and handicapped. Furthermore, no more than 10 percent of the public housing, section 236 or rent supplement funds are to be used for this purpose.

This title also contains authority to continue the urban renewal program through 1972. The conferees agreed to $1.5 billion for the program in fiscal year 1972. This is less than the $2 billion in the Senate bill but, in view of the outstanding unappropriated funds of over $1 billion, the House conferees were adamant in insisting that the additional $1.5 billion was all that the Administration could efficiently use for next year.

TITLE III—MODEL CITIES AND METROPOLITAN DEVELOPMENT PROGRAMS

Under this title, the conferees agreed to an additional authority of $200 million for fiscal year 1972 for the model cities program. This is a reasonable compromise between the $162.5 million contained in the Senate bill and the $250 million contained in the House bill.

TITLE IV—CONSOLIDATION OF OPEN SPACE PROGRAM

The only significant difference between the Senate and House bills in this title involved the authority for open space land grants for fiscal year 1972. The Senate bill contained $100 million authority and the House bill $90 million authority. The conferees agreed to the Senate provision.

TITLE V—RESEARCH AND TECHNOLOGY

This title consolidates all research and technology programs under HUD. However, the Senate bill contained two provisions extending the program to provide for demonstration of a new housing allowance program and a new program to test methods of arresting housing abandonment. The conferees agreed to these provisions with amendments reducing the housing allowance demonstration authority to $10 million for each of the fiscal years 1972 and 1973, and reducing the housing abandonment program to a 2-year program with a total appropriation authority of $20 million.

TITLE VI—CRIME INSURANCE

Both the Senate and House bills contained provisions authorizing the Secretary of Health and Urban Development to provide crime insurance in each State where a finding is made that such insurance is unavailable or available only at a prohibitive cost. The Senate bill would have implemented such a program in a State only after the close of one full legislative session of the State Legislature but, in no event, sooner than August 1, 1971. The House bill would have implemented the program of Federal Crime Insurance upon the date of enactment of this act. The conference committee agreed that the Secretary should be required to conduct a continuing review of the market availability of crime insurance at affordable rates in each of the several States. Upon determining that such insurance is not available in any State, the Secretary is authorized to provide crime insurance in that State on

or after August 1, 1971. This gives State legislatures a reasonable period of time in the early part of next year to provide an adequate crime insurance program in the respective States in order to avoid the Federal Government undertaking such a program.

TITLE VII—URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT

The Senate bill contained a provision for a new program of urban growth and new community development requiring a biennial report on urban growth to be transmitted by the President to the Congress, and establishing a greatly expanded program of guarantees, loans, and grants for new community development. No such provision was contained in the House bill. The conferees agreed to the Senate provision with four amendments, as follows: First, authority for the Housing and Urban Development Secretary, upon specific authorization by the President and using funds appropriated by the Congress, to plan and carry out new community demonstration projects on federally owned lands; second, authority for the Housing and Urban Development Secretary to make grants to States or local public bodies to provide public services to residents of new community projects during their initial period of development; third, authority to guarantee, in the case of a State land development agency, obligations covering up to 100 percent of land value and development costs; and fourth, authority for the Housing and Urban Development Secretary to provide grant assistance to developers to plan new community development programs.

TITLE VIII—FARM HOUSING

This title contains several miscellaneous provisions improving the statutory authority for carrying out an aggressive program of Federal assistance for farm and rural nonfarm housing. One of the provisions in the Senate bill under this title would have authorized Farmers Home Administration to provide financing for the purchase of mobile homes. The House bill contained no such provision. Conferees agreed to the House's position and rejected the Senate provision. The House conferees maintained that adequate authority existed under FHA title I to help provide financial assistance for the purchase of mobile homes in rural areas.

In connection with one of the provisions in both bills which increased the loan limit for rental housing for the elderly under the Farmers Home Administration, the Senate version would have placed the limit at $1 million, and the House version at $500,000. The conferees agreed to a limit of $750,000.

TITLE IX—MISCELLANEOUS

The Senate bill would have authorized the Secretary of Housing and Urban Development to impose a civil penalty for violating new statutory authority prohibiting the use of lead based paint on interior of dwellings. The House bill contained no such provision. The conferees rejected the provision on the basis that a bill covering the lead based paint issue, H.R. 19172, had already passed the House and was on the Senate calendar for prompt action.

The Senate bill contained a provision authorizing public utility holding companies to participate in the provision of low and moderate-income housing. The House bill contained no such provision. Conferees rejected the provision because the House conferees were adamant that such authority in a conference report involving housing legislation would be subject to a point of order by the House of Representatives.

The House bill contained a provision which would have extended for two years the log export amendment of the Foreign Assistance Act of 1968 which placed a ceiling of 350 million board feet on the amount of logs allowed to be exported annually from the Federal forest. The Senate bill contained no such provision. Conferees agreed to the House provision with an amendment which directed the Forest Service to correct any inequities that may exist because of the lumber export limitation and that the 350 million board feet exemption be allocated insofar as practical in proportion to the normal sales program for those Federal timber lands which have been designated to provide exemption quota volumes.

URBAN MASS TRANSPORTATION

The Senate bill contained provision for Federal emergency grants for outstanding indebtedness and operating deficits to meet urgent financial requirements to present local mass transit systems from terminated services through fiscal years 1971 to 1975. The House bill contained no such provision. The House conferees remained adamant and the Senate conferees had no choice but to agree to the House position that the Congress had earlier this year directed the Dept. of Transportation to study this matter once this report is received the Congress will procede to enact appropriate legislation to solve this very difficult problem.

AVAILABILITY UNDER PENDING LEGISLATION OF ASSISTANCE TO NEW COMMUNITY PROJECTS APPROVED BY HUD PURSUANT TO TITLE IV OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968

Mr. MONDALE. Mr. President, I understand that there may be some problem that the benefits of the proposed new community development program will not be available to projects previously approved by the Secretary of Housing and Urban Development pursuant to the provisions of title IV of the Housing and Urban Development Act of 1968.

The act provides that a developer whose project has been approved under title IV shall be eligible, "with respect to obligations thereafter issued by him, for guarantee assistance as authorized either by title IV or by this part." The term "guarantee assistance" is not defined, and the language omits any reference to the availability of the new benefits to public bodies for assistance in such matters as providing essential public services to the residents of new community developments approved by the Secretary under title IV. If narrowly and strictly construed, the term "guarantee assistance" could mean only that any obligation issued by a title IV developer after the effective date of the new law will be eligible for a guarantee continuing the improved language with respect to incontestability as set forth in section 727(a) of H.R. 19436.

Such a narrow and strict construction was not intended since the three projects, one of which is in my State, which have been approved by the Secretary of Housing and Urban Development under the title IV program are in their infancy and are greatly in need of the loan and grant assistance which will be made available by the new law. The "guarantee assistance" to a developer is insignificant in comparison to the needs of the public bodies who are facing the same problems and difficulties in the recently approved title IV projects as will be faced in projects approved under the new law.

In order to avoid any misunderstanding of the congressional intent and to make certain that the developers and public bodies identified with the title IV projects which have recently been approved by the Secretary of Housing and Urban Development will be eligible for the new assistance, I urge that it be understood that in providing for guarantee assistance to new community development programs or projects which, as of the effective date of the 1970 act, have been approved by the Secretary of Housing and Urban Development under title IV of the Housing and Urban Development Act of 1968, it is intended that such programs or projects, and the developers and public bodies identified therewith, shall be eligible for the assistance and benefits of the 1970 act on the same basis as if guarantees of obligations had been made under the provisions of the 1970 act.

Mr. SPARKMAN. In response to the inquiry by the Senator from Minnesota whether new community developments already approved for Federal guaranty assistance under existing law would be eligible for the Federal benefits under the new title VII of this bill before us, I would say such communities would need to fulfill all the statutory requirements of new law before receiving the benefits of this new law. I assume, of course, that the three projects already approved here met specifications under the old title IV statute and therefore would have little difficulty in fulfilling the requirements of the new law. However, until the Secretary approves the project under the new specifications, I am sure you would agree there is no automatic eligibility of these particular projects.

Mr. President, I have a statement by the distinguished Senator from Massachusetts (Mr. BROOKE) on the subject which he has asked me, on his behalf, to have printed in the RECORD, and I ask unanimous consent that that be done.

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

STATEMENT OF SENATOR BROOKE

HOUSING AND URBAN DEVELOPMENT ACT OF 1970

Mr. BROOKE. Mr. President, I rise today in support of the Conference Committee's version of the Housing and Urban Development Act of 1970. This piece of legislation represents another milestone along the road toward producing a decent home and a suitable living environment for every American family.

I commend the distinguished Chairman of our Committee, Senator Sparkman, and the distinguished ranking minority member, Senator Bennett, for their untiring leadership in this field. One cannot question the commitment of Congress to the goal of a decent home for every American family. I am hopeful that this legislation will be signed into law shortly and that it will provide much needed relief in the years to come.

Highlights of the Conference version include:

Clarification of an amendment to the 1969 Act to insure that adequate funds are provided to improve public housing;

Added flexibility for construction cost ceilings;

A national crime insurance program;

An urban growth and new community program; and

An experimental housing allowance program which may foretell the shape of future housing programs.

While each of these programs is extremely important and should be addressed in depth, I will confine my remarks to low-income family housing programs which are so vitally needed throughout the country.

Last year, Chairman Sparkman and I introduced legislation designed to alleviate intolerable conditions which have been allowed to exist far too long in public housing. The Sparkman Amendment made it clear that Federal assistance to local public housing authorities was not limited to debt service requirements, but could be extended to cover operating needs as well. At the same time, I introduced legislation which authorized HUD to contract with local authorities to make payments to insure the low rent character of public housing and to provide improved operating and maintenance services. The 1969 Act placed a ceiling equal to 25 percent of tenants' income on the rent which is required to be paid.

Seventy-five million dollars in contract authority was authorized for these purposes; however, Congressional intent was clear as to HUD's ability to provide funding in excess of this amount. These two pieces of legislation held the promise for reversing serious trends in public housing; however, the Brooke Amendment was later subjected to narrow administrative interpretations which limited its effectiveness. Specifically, while tenants' rents were limited to 25 percent of their income, additional funding was not provided to improve the quality of operating and maintenance standards.

I introduced legislation earlier this year which was designed to remove any uncertainty as to Congressional intent. I am pleased to note that the Conference Committee has accepted this provision. Thus, sufficient funds will be available to insure that public housing tenants are not forced to pay a disproportionate share of their incomes for rent; and to insure that public housing authorities will have sufficient funds to achieve and maintain adequate operating and maintenance services and reserve funds.

Among the operating and maintenance services which will be funded are the following: tenant counseling on family budgets and on care and upkeep of property; guard and other costs relating to the physical security of project residents; tenant access to available community services relating to employment, health, welfare, education, and personal counseling; effective management-tenant liaison on all aspects of housing administration, management and maintenance; recreational equipment and facilities; and adequate and timely repairs to structures, including the removal of any code violations.

The Conferees have earmarked contract authority in the amount of $75 million per year, which when added to the funds provided under last year's Housing Act, will bring the level of operating and maintenance subsidies to $150 million per year. Thus, adequate funds should be available to restore public housing projects to adequate levels of operating and maintenance services and to insure that a sound physical and social environment is maintained.

It should be emphasized that the Committee is not giving a blank check to local housing authorities, which will enable them to spend extravagantly or irresponsibly. These groups must act in a responsible manner and must insure that the additional funding is used to up-grade the quality of living in public housing and to improve legitimate services which contribute to a sound living environment.

It should be noted that although $150 million has been specifically earmarked for the subsidies discussed above, HUD is not limited to these funds if conditions require that additional funds be used.

I am extremely pleased that the Conference Committee has adopted the Experimental Housing Allowance Program, which I proposed earlier this year. Thus, the Secretary of HUD will be authorized to provide low-income families with housing allowances to assist them in obtaining existing standard rental housing of their choice.

The housing allowance will not exceed the difference between 25 percent of a tenant's monthly income and the maximum fair market rental for standard housing in the community involved. The benefits provided to public housing tenants last year under the Brooke Amendment will thereby be extended to those persons who qualify for public housing but are unable to obtain it for a myriad of reasons.

While public housing as we know it today will change immeasurably over the next few years in response to urban and rural requirements and to the infusion of funds under the Sparkman and Brooke Amendments, we must also begin thinking of alternative programs to address the needs of the poor. The Housing Allowance Program may represent the pattern for future housing programs. The Kaiser Committee and Douglas Commission provided us with valuable insights regarding the Housing Allowance Program, and I am hopeful that this experiment will bear out their optimism.

The Committee has provided $10 million in contract authority for each of the fiscal years 1972 and 1973 This financing mechanism is also utilized to fund public housing units and should expedite the financing of this program While these funds fall short of my original proposal, I am confident that the Housing Allowance experiment can be conducted utilizing 10,000 families at a cost of approximately $1,000 per family each year for two years. This program is a "bare bones" proposal and I am hopeful that Secretary Romney will seek additional assistance from Congress if such assistance is necessary.

I am also pleased to note that the Conference Committee has removed any bar on tenants serving on the board of directors of local housing authorities; extended the Section 235 leasing program to new construction as well as existing units, in addition to extending the term of leases; has adopted the abandoned housing proposal which I introduced earlier this year; and instituted a number of worthwhile changes designed to improve the quality of living for every American.

In conclusion, the Housing and Urban Development Act of 1970, which is pending before you today, constitutes another monumental piece of legislation designed to make further progress toward meeting the national housing goal of a decent home and a suitable living environment for every American family. Your Committee of Banking and Currency has worked hard to produce a reasonable and responsible piece of legislation, and I urge my colleagues in the Senate to lend their support to Chairman Sparkman in this matter.

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

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

Mr. SPARKMAN. Mr. President, the Senator from Illinois had asked me a moment ago to yield to him. I yield now to the Senator from Illinois.

Mr. PERCY. Mr. President, I certainly support our conference report. But I would be negligent if I did not evidence deep disappointment that the House refused to act on a provision covering urban mass transit which was unanimously adopted by the Senate Committee on Banking and currency.

I think it very strange indeed that we have continued to extend, on a continuing resolution, around $20 million a month for the SST, when we have already overwhelmingly decided that we must help failing mass transit systems throughout the country with operating expenses to keep them going. We had decided to help these mass transit companies because they have incurred huge bonded indebtedness in an effort to improve their service. They will not be able to meet this bonded indebtedness and interest and principal, because we have no authorization to provide those funds. Yet at the same time, we seem to be able to find month after month the funds to support the SST which will serve such a relatively few Americans, as opposed to the millions and millions of people of low income who will be adversely affected by the unwillingness of the House to act.

I do know that the House conferees remained adamant. I know that the Senate conferees tried in every way they could to prevail. They finally had no choice but to agree to the House position that the Department of Transportation be required to study the problem and report to the Senate on its findings next year.

The House conferees said that once the report is recieved, the Senate and the House can proceed to enact appropriate legislation. But I feel that in conditions of emergency, such as we face now, for us to have to go back and study the problem is ridiculous. What is there to study when bus transportation companies and mass transit lines are failing? Service is interrupted. Low-income people are continually affected by the continuing rising rates.

I express my deep disappointment that the House conferees did not see fit to meet this need.

I hope it is apparent to the people in the urban areas where the responsibility lies.

I believe that the Senate faced up to its responsibilities and looked ahead trying to save transit lines that, if we wait too long, will not be replaceable at any time in the future.

Mr. SPARKMAN. Mr. President, I am sure the Senator from Illinois knows that I am in complete agreement with him. I think the Senate passed a good bill on this matter. We tried as hard as we could. We brought up all of these points. The conferees representing the House seemed to think that probably within the next year some plan will come

out of the Department itself for an appropriate solution to this problem.

We had what I think is a fair understanding that this is not the end of it.

The Senator knows, I am sure, that urban mass transit originated in the Senate Banking and Currency Committee. That is where the first act was written in 1961. It was sent to the Senate and, with the approval of our able colleague, the Senator from New Jersey (Mr. WILLIAMS), it was passed. He has taken a very active part since that time.

This year, both the Senator from Illinois and the Senator from New Jersey had mass transit bills. The two Senators working together, worked up what I thought was a very fine proposal for solving these transit problems with which the country is confronted. The Senate agreed with these provisions, but I am sorry the House conferees were adamantly opposed.

I promise the Senator, that as far as I am concerned, we will continue to support the request for Federal solutions to this problem.

Mr. PERCY. Mr. President, I thank my distinguished colleague. I particularly commend the Senator from New Jersey (Mr. WILLIAMS), who has been an expert in this field. He has been a champion of this cause through the years. I have enjoyed working with him.

I deeply appreciate the support of my colleague, the senior ranking minority member of the committee, the Senator from Utah (Mr. BENNETT), for his understanding of the problem and his support.

Mr. SPARKMAN. The Senator from New Jersey (Mr. WILLIAMS) was on the conference. The Senator from Illinois knows we have a scrapper there.

Mr. PERCY. We could not have had a better exponent on that particular point.

Mr. President, I put the Senate on notice of one problem that the Illinois Housing Authority faced in their housing. Section 108, the new section, would cover them in their section 235 activities. It is my understanding this does not cover them, that this is a substantive matter that could not be brought on the floor.

I hope to present adequately the problem that Illinois faces in this respect with respect to fees and charges that can be included in the mortgage insurance premium, and I will try to correct this problem which I know is faced by other housing authorities in subsequent legislation that we will be taking up in our committee.

Mr. SPARKMAN. Mr. President, we have given considerable thought to that matter. We know the problem. We know it is a difficult problem and a difficult situation. If the Senator can work up something, I should be very pleased. The Senator is right. It covers section 236, but not 235.

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

Mr. SPARKMAN. I yield to the junior Senator from New York.

Mr. GOODELL. Mr. President, I rise to support the conference report on the 1970 housing bill. I think it is a good bill and a good compromise.

I am very pleased that the Senate and House conferees accepted many of the housing provisions I have introduced this session and in this regard, I deeply appreciate the cooperation and support I have received from the distinguished chairman, Mr. SPARKMAN, and the ranking minority Member, Mr. TOWER. I particularly want to commend the conference committee for including the first breakthrough legislation with reference to the problem of abandoned housing in our urban communities.

One of the most important issues I have worked on this session is the housing abandonment problem.

The phenomenom of housing abandonment is fast becoming our most severe urban housing problem. It usually begins in a transitional neighborhood where the costs of operating a building begin to exceed the rental income. Unable or unwilling to sustain the losses, the property owner simply walks away leaving the building in disrepair and in the hands of addicts, criminals, and teenage gangs who vandalize the building beyond restoration.

More importantly, abandonment is a highly contagious disease and eventually it infects whole neighborhoods. The abandonment of one building unmistakably points the direction in which the block is going—down. Investments are withdrawn from the neighborhood and family after family is left homeless or forced to live in unsafe, unsanitary quarters. Soon entire blocks empty and remain vacant for years, a symbol of urban decay at its worst.

In hearings held before the Senate Banking and Currency Committee in July, it became clear that abandonment is a national problem affecting major cities across the Nation. Over 130,000 apartments have been abandoned in New York City since 1965. In Philadelphia, 20,000 buildings have been abandoned; 7,500 in Houston; 5,000 in Baltimore; 1,500 in Detroit; 1,000 each in Boston and Washington, D.C.; 950 in Chicago; 900 in New Orleans.

Under the present system the Federal Government is unable to assist the situation where houses are abandoned in a block unless those abandoned houses are in an area covered by or soon to be covered by urban renewal plans. In an effort to stimulate direct immediate Federal action, I introduced three pieces of legislation, S. 4180, the Emergency Abandonment Assistance Act, S. 4181, the Housing Management Services Act, and S. 4182 to provide for fellowships in the field of housing management.

In addition, when the Senate housing bill, S. 4368, was brought to the floor in September, my colleague from Massachusetts (Mr. BROOKE) and I joined, along with Senator JAVITS, to offer an amendment authorizing the Secretary of Housing and Urban Development to make $25 million in grants available to selected cities for the purposes of demonstrating effective and prompt methods of fighting housing abandonment. This provision, the abandoned properties demonstration program, was not included in the House bill, H.R. 19436.

I am very pleased that the conferees agreed to accept this amendment—even though the program has been reduced by $5 million. The program will represent the first congressional recognition of the problem of housing abandonment and the need for an immediate remedy.

It is a demonstration program to show that, working with the States and the cities, we can focus in on the problem and where a single house is abandoned in a block, immediately move to demolish it or renovate it before the disease spreads throughout the entire block.

Although it is a modest grant program, it will serve as a good beginning for a thorough understanding and a major attack on housing abandonment.

I am very proud that the amendment I offered in the committee is in the bill and has survived the conference. I thank the Senator from Alabama for defending it as he did.

The compromise also includes a modified version of my bill, S. 4182. This provision authorizes matching grants to States to finance the training of employees of public bodies and nonprofit organizations in housing management with an emphasis on low- and moderate-income housing. Matching grants would also be available for housing management research by the States and local government. In hearings before the Banking and Currency Committee many witnesses testified that poor and inefficient housing management was a cause of housing abandonment. This provision will help to provide personnel and programs for good management and good maintenance of existing housing.

Another provision included in the conference report is a bill I introduced to provide section 235 homeownership payments to State-financed cooperative and condominium residents. Increasingly, ownership of cooperatives or condominiums in the urban areas has become the only feasible form of homeownership. Sky-rocketing costs for land and the scarcity of that precious commodity make the price tag for a single family dwelling prohibitive. Low- and moderate-income families can simply not afford the cost. Instead these families are taking advantage of cooperatives and condominiums as "homeownership city-style." This provision will add a Federal subsidy to reduce costs for the potential owner and thereby encourage cooperative-condominium ownership.

I am very pleased that the Senate conferees agreed to accept a House measure providing Federal housing assistance for our single population, particularly the nonelderly, and the displaced.

Existing Federal low- and moderate-income housing programs do not adequately serve this single population. By and large the programs are primarily designed to assist families, the elderly and the handicapped. As a result, the needs of this population group has become acute, particularly in areas designated for public clearance such as urban renewal areas. As renewal activities begin, municipal officials, who are responsible for relocating the displaced residents cannot find suitable units in sufficient number for the single population.

In an effort to help correct this inequity I introduced a bill, S. 4288, to allow Federal subsidies in the form of sec-

tion 236, rent supplement and public housing funds to be used for the purpose of constructing congregate housing especially suited for nonelderly single persons.

Such housing would be dormitory-type rental housing with maximum feasible use made of common baths, community kitchens, common dining areas, and other shared facilities such as recreation rooms, workshops or health facilities. Under my bill only 10 percent of the appropriations in each program could be used for construction of this housing.

Competent and responsive housing management would be essential to the success of a project with such a diverse and complex tenantry. Therefore, my bill permitted the inclusion of management fees into the allowable project cost.

While my bill was adopted in committee, it was later deleted on the Senate floor.

In the other body, Congressman WILLIAM MOORHEAD of Pennsylvania took the lead by introducing a similar bill, although not as comprehensive as S. 4288. Mr. MOORHEAD's bill was approved by the Banking Committee and accepted by the House of Representatives. Since I believe housing assistance for the single, nonelderly population is so critical, I am delighted that the Senate conferees accepted the Moorhead provision. While it is not as far reaching as my bill, it is an important beginning—one that will be followed by a more extensive program in the years ahead.

Another provision accepted by the Senate conferees was a measure introduced by Congressman WILLIAM FITTS RYAN to provide section 236 and rent supplement assistance to all State or locally financed rental or cooperative housing without regard to the date of construction. Existing law prohibits the use of such funds for existing housing.

This bill provides the desperately needed financial assistance to the families now living in 23,000 units financed by the New York State Mitchell-Lama program. These units were originally financed with temporary, low interest loans. The low financing charges produced low rents—about $30 to $40 a room— which low- and moderate-income families could afford.

Now, at a time of soaring interest rates, the mortgages must be renewed—at a far greater cost. The greater costs, of course, are translated into higher rents for the tenants, some nearly double the original rent.

Clearly these increases would be more than the Mitchell-Lama families could afford. The influx of Federal subsidy, through Congressman RYAN's bill, will reduce the mortgage costs and therefore the rentals.

BILL RYAN worked long and hard for this measure and he has done a great service to the people of New York. Since 10 other States have similar programs, they will also benefit from this program.

There are two serious omissions in the compromise bill. First, the House conferees refused to accept a two-part mass transit assistance program aimed at serving commuter lines. One part of the program, introduced by the able senator from New Jersey (Mr. WILLIAMS), provided direct operating subsidies to failing commuter lines. The other approach, offered by my good friend, Mr. PERCY, provided interest subsidies for the debt service on capital equipment purchased by lines serving low-income areas or threatened with failure.

I share the regrets of the Senator from Illinois that this aid will not be forthcoming. It is apparent that rail transit, both commuter and intercity service, is in serious trouble. Only direct assistance, as provided in the Williams-Percy approaches will be able to stabilize this emergency situation. I hope the Congress will recognize this need in the years ahead.

The second omission was deletion of the House-passed amendment to increase mortgage limits for section 235–236, other FHA subsidized housing by 20 percent. I introduced a similar version on the Senate floor which was defeated.

I am deeply concerned about this omission. Construction costs—that for labor, materials, land—increase at a skyrocketing rate. The allowable project costs under our housing programs do not increase at a corresponding rate. Therefore, housing construction must be halted when actual construction costs exceed the statutory mortgage limits. Many cities across the country—high-cost areas—are now feeling the "cost pinch." I regret the failure of my amendment, the House-passed measure.

I believe the 1970 housing bill is an excellent one.

I have been privileged to work so closely on it. Once again, I extend my gratitude to Mr. SPARKMAN and Mr. TOWER for their support.

Mr. SPARKMAN. Mr. President, I thank the junior Senator from New York.

Mr. President, I now yield to the senior Senator from New York.

Mr. JAVITS. Mr. President, I would like to say a word about Senator GOODELL's part in the problem. We have both inspected enormous areas in New York—the South Bronx, Harlem, a disaster-hit area called Brownsville in Brooklyn, and another part of the city, Bedford-Stuyvesant, and have seen the problems existing.

We have seen the horrible price paid under almost inhumane circumstances because of these abandoned buildings which become, as the Senator so eloquently pointed out, the real dens of inequity of the city for narcotic addicts and pushers, and they become fire hazards, and hazardous to children and unsightly messes.

I pay tribute to the junior Senator from New York. I joined with him but he carried the ball and he worked very hard to get the matter through.

I tried hard to take this message of his effectiveness to the people of our State. I am sure the junior Senator from New York is happy to see this matter consummated. Knowing him, it is a greater satisfaction to him to have gotten this matter through than his political campaign. That is the greatest tribute one can pay to a colleague.

I join the Senator from Illinois (Mr. PERCY) and the junior Senator from New York in expressing my regret about mass transit, but there are other critical important parts of the bill.

I like very much the crime insurance part of the bill. That is an enormous problem in the ghettos. I like that part which will let small builders qualify for bonds for guarantees. The guarantee for mortgages is a very fine privilege.

New York is very grateful to the Senator from Alabama, the Senator from Texas, the Senator from Illinois, and my colleague from New York for the assistance with regard to section 236 mortgages and supplement programs, making them available in what we call the Mitchell-Lama housing in New York.

As always I have the greatest admiration for the Senator from Alabama. I have served on his committee and I know of his work firsthand. I wish to express the gratitude of the 18.5 million people of my State to him for the fine work he has done in this matter. While it is not the optimum, it is wonderful progress along the way.

Mr. SPARKMAN. Mr. President, I thank the senior Senator from New York. I was pleased to hear him make remarks with regard to his junior colleague. The senior Senator knows, of course, the junior Senator from New York has been serving on the Committee on Banking and Currency since he has been in the Senate. He has been one of our most able and faithful workers on that committee. During the time he has been there he has made many good proposals, many of which we have written into law; not all of them but most of them we have written into law. I appreciate what the Senator said about him. I found him a very good Senator to work with and to be associated with. I enjoyed his service on the committee and I am grateful for it.

Mr. JAVITS. I thank the Senator.

Mr. GOODELL. I thank the Senator for his comments. I enjoyed working under his fair and enlightened leadership. It means a great deal to me to have those comments made by a man for whom I have such great respect.

Mr. SPARKMAN. Mr. President, in conclusion I express my thanks to all members of the Committee on Banking and Currency and the Subcommittee on Housing and Urban Affairs for the wonderful work they did on this legislation. This is not easy legislation. It is complex. It was difficult and it was difficult because we saw so many things that needed to be done and we could not do all of them at one time.

I especially wish to pay tribute to Carl Coan, staff director of the Subcommittee on Housing and Urban Affairs and John Evans, the minority counsel, and other staff members who worked so well on the legislation.

Mr. President, I move the adoption of the conference report.

The motion was agreed to.

SOCIAL SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes.

Mr. WILLIAMS of Delaware. Mr. President, I do not wish to delay the Senate, and I am not making any points of order tonight or discussing it, but I will mention this point: I merely invite attention to the fact that the Scott amendment which was offered to H.R. 17550 earlier, the amendment reported by the clerk, was different from the amendment appearing in the Journal. I am sure that the Senator from Pennsylvania may want to make a point of order himself on this and may ask for the amendment to be withdrawn. It appears that he sent it to the desk and the clerk reported the wrong amendment.

I detected this earlier and had a photostat copy made of the amendment as it was reported and that is what is officially before the Senate.

I have a photostated copy of both copies. I have been a copy of the amendment as now before the Senate.

There has been a lot of confusion in the Senate in the past few days but this is evidence that the confusion has spread.

I merely call this to the attention of the Senate now to say that at an appropriate time I shall point out the effects of the amendment.

Mr. President, in connection with the Soctt amendment, at first glance it appeared that the Scott amendment had lifted the committee amendment pages 7 and 8 out of the bill and transposed it for parliamentary reasons in order to get an earlier vote on the family assistance plan. I can understand that.

I noticed the amendment at the desk, and I wondered if it was exactly right. I asked Mr. Brownrigg to get it from the clerk and to photostat the amendment as reported so that I would have a copy, and I have a photostat of the amendment as it was read and presented at the desk.

The amendment that was transferred to the journal clerk was a different amendment, but the amendment now before the Senate is the one that would be reported by the clerk that is officially before the Senate.

I have checked this with the staff, and the mathematical effect of the amendment before the Senate, and I think the Senator from Pennsylvania and others will want to know this, is that it does one of two things. It either raises everybody to a $221 minimum and repeals 90 percent of the Social Security Act. It reads that no benefits would be paid to anybody with wages of more than $488 monthly, and since virtually no one on the rolls would have wages that high the staff estimates that the effect would be that 90 percent of the people on social security would have their benefits reduced to zero under the Scott amendment as it is proposed by the Ribicoff-Bennett amendment.

That is the situation we have, and that is the amendment we have pending. I shall be glad to have the Senator from Pennsylvania review this matter. He can decide tomorrow how far he wants to pursue his amendment. I know that was not the intent, but that is the amendment at the desk, and it is not subject to modification or amendment.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. RIBICOFF. Mr. President, I have asked the Senator to yield because the distinguished minority leader was not here when this discussion began.

It becomes apparent that at the desk either the bill clerk, or the reporter, or someone who transcribed caused a little confusion, because what the senior Senator from Delaware showed me on one set of photostats has two page 8's.

Mr. WILLIAMS of Delaware. That is correct.

Mr. RIBICOFF. In the other photostat, the journal clerk has only page 7, so it becomes apparent a page 7 and a page 8 were at the front desk. Who caused the confusion I do not know. But there was confusion as evidenced by the fact that the Senator from Delaware has two sets of photostats, one with two page 8's and one with page 7. Someone assumed they were the same and left one out.

Mr. WILLIAMS of Delaware. Apparently they were stapled together. The reading clerk could have made a mistake and so could anyone else. But in all fairness to the clerk, two pages numbered 8 were stapled together as the reading clerk read them. I do not want to put the reading clerk in the position of having made the mistake because all he could do was report the amendment that went to the desk, and I have a copy here.

It even has the name of the Senator from Connecticut on it first; that is crossed out, and it shows that Senator SCOTT offered it. At the end of page 6 it states "insert the following," and then there are some words stricken out, then two pages 8.

The effect of the amendment if adopted is to repeal the Social Security Act so far as page 7 is concerned. We shall have plenty of time in the next couple of days to straighten this matter out. The proposal is intended to include a family assistance plan now before us. We may need the family assistance plan and a greater welfare plan because if the whole package is adopted it would strike out 90 percent of the Social Security Act and place all those people on welfare.

Mr. RIBICOFF. Mr. President, I wish to point out at this time that I cast no aspersions on the reading clerk or the Journal clerk, but it becomes apparent that somebody in transmitting this amendment, some part of the inner workings of the Senate, made an error somewhere. If an error was not made I fail to understand how the Journal clerk can have page 7 and the reading clerk two copies of page 8. So someone caused confusion, because if the distinguished Senator had put in two page 8's, how could the Journal clerk get a page 7?

Mr. WILLIAMS of Delaware. No one knows exactly how it happened, but one could easily see how it could happen. One set was stapled together, and rather than putting in that set one page 7 and one page 8, they put two page 7's in one bill, and the reading clerk got the two page 8's and the Journal clerk got the two page 7's. The page 8's are officially before the Senate.

Mr. SCOTT. If the Senator will yield, I do not want to leave the record stand without saying I submitted the amendment, and no matter what the amendment shows, if there were flaws and errors in it, they were probably there when I submitted it, so I do not want to blame anyone else.

That may have been the case, but overriding that is the fact that nobody really knows what the case was, and overriding that is the fact that there are very important substantive changes offered by the amendment. As the Senator from Delaware says, it certainly is not the amendment that came out of the committee, and, therefore, it ought to have its right to be heard and debated and voted upon. We can discuss the point of order later, but it certainly seems to me that when one looks at page 6, and then looks at the bottom and sees nothing but a blank space, and then the amendment I offered contains some important and substantive changes between 6 and 7, if there is a chart or table left out, normally, if this were not near the end of the session, I am quite sure all Senators would agree that we could correct this kind of unfortunate error and get on to the merits of the substance.

But we are in a situation where we are not talking merit, we are not talking substance; we are talking page 7 and page 8, and I think we will have to have a point or order. The issue is whether this is a substantive change in the amendment.

Mr. WILLIAMS of Delaware. If the Senator will yield, I examined the amendment first with the thought that possibly a point of order would lie. I now say that a point of order would not be sustained. I agree with the Parliamentarian. This is a change. When 80 or 90 percent of the social security law is repealed that is different from what the committee did, and I will debate anyone who tries to raise a point of order. The Scott amendment is definitely in order. It is the biggest change in social security laws that has ever been proposed in this Congress. My first impression was that if this were the committee amendment—and I know the Senator from Pennsylvania intends to take pages 7 and 8—I was going to consider a point of order, but when I saw two page 8's only were offered, I had them photostated; I knew that all I needed was to have the yeas and nays ordered on this amendment, and we would discuss it in a clear atmosphere later. I am confident that neither the Senator from Connecticut nor the Senator from Pennsylvania would want

to pursue an amendment which, if enacted, would repeal 80 or 90 percent of the Social Security Act. It is not subject to a point of order. I want to make that clear.

Mr. SCOTT. I must say the Senator from Delaware could have told me what he had in mind with regard to the request for the yeas and nays. I knew the Senator had something, because he always has something, but we did not know what it was. Now that we know what it is, perhaps we will appreciate it at a later date. But the Senator is in error if he thinks I am going to withdraw this amendment at this time.

Mr. WILLIAMS of Delaware. I am sure the Senator is not going to withdraw it. We are in agreement on that. I am going to be frank and say that I wanted the yeas and nays ordered to prevent the amendment from being withdrawn. I do not approve of amendments being offered in the Senate where only the manager of the amendment can change it. I doubt that the White House or the Senator from Pennsylvania will want a proposal acted on which would repeal 80 percent of the Social Security Act. I hope that tomorrow we can reach agreement. I am sure no point of order could prevail. I will defend the Parliamentarian on that. When the Senator from Pennsylvania proposed to repeal 90 percent of the Social Security Act it is a change, and I put that in capital letters.

Mr. RIBICOFF. Mr. President, if the Senator will yield, while there may be some error, no change was intended, and no change affecting any social security beneficiary will ever become law. This is a mighty big bill, with a lot of pages, and there will be plenty of opportunity as we go along perfecting various amendments and putting in amendments to make sure that in some subsequent amendment and in some subsequent procedure the complete charts are put in, so the Senate will arrive at a point where it can vote on a 10-percent social security increase and a $100 minimum. I am sure that between the Senator from Delaware, myself, and other Senators, there will not be difficulty achieving any result of that kind.

Mr. WILLIAMS of Delaware. I am sure of that, because I cannot conceive of the Senator from Pennsylvania wanting to repeal 90 percent of the Social Security Act. I cannot conceive of that, and that was what struck me when I saw the amendment at the desk. That is the reason why I wanted to get this outlined on the RECORD tonight; Senators should be on notice as to the situation before the Senate.

Mr. SCOTT. I do not think there is any question of good faith on the part of the Senator from Pennsylvania and on the part of the Senator from Connecticut in their desire to achieve what the committee has so well and carefully wrought; namely, an increase in certain social security benefits. I am not aware how the Senator from Delaware voted on those increases, but I will say now, and as often as I have the opportunity, I will vote for them. I am for the social security benefits. I am for these charts.

If the Senator from Delaware had advised us that we were offering a chart which would repeal part of the Social Security Act, we could have corrected the matter on the floor in less than 30 seconds, and we will always be willing to correct the matter on the floor in less than 30 seconds if the Senator will permit us.

Mr. WILLIAMS of Delaware. If the Senator from Pennsylvania had sought my advice I would have been delighted to have given it to him.

Mr. SCOTT. I assure the Senator I will. I always do.

Mr. WILLIAMS of Delaware. I was not asked my advice when the proposal was presented, so I took it at face value that he knew what he was doing. I have such respect for the Senator from Pennsylvania that it never dawned on me that he did not know what he was doing.

Mr. SCOTT. I was going to say that no Senator knows what he is doing when the Senator from Delaware gets through with him, because he has expertise which is so superior to the rest of us. I agree with that. That is why we are going to miss him. But the Senator from Pennsylvania knew what he was doing, all right. The Senator from Pennsylvania is not aware to this minute whether or not a chart had been changed or had not been changed. The Senator only knows the chart had been changed when it was in his hands, and another copy went to the desk, and that is where the mystery lies.

The Senator from Pennsylvania takes that responsibility in having concurred in sending up the second chart. The Senator from Pennsylvania's intention is good. His purpose is good. His desire to achieve a social security benefit increase is good. He will gladly consult the Senator from Delaware to see how, in the exercise of his infinite wisdom and mercy, we will achieve the desired result.

Mr. WILLIAMS of Delaware. Whenever the Senator seeks my advice I assure him that he will get it.

Mr. SCOTT. I will be glad to accept the advice up to the cliff, and there I will take a good look over it to see where we are going.

Mr. WILLIAMS of Delaware. I assure the Senator from Pennsylvania he will be well advised to be guided by any advice I give him.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

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

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

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

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

PETITION

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate a resolution adopted by the Eastern Navajo Council of the Navajo Tribe of Indians, Crownpoint, N. Mex., praying for the necessary appropriation to construct a new hospital at Crownpoint, N. Mex., which was referred to the Committee on Appropriations.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The ACTING PRESIDENT pro tempore (Mr. METCALF) announced that on today, December 17, 1970, he signed the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 1785. An act for the relief of Irene Sadowska Sullivan;

S. 2162. An act 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;

S. 2336. An act relating to the parishes and congregation of the Protestant Episcopal Church in the District of Columbia;

S. 3318. An Act to amend the Library Services and Construction Act, and for other purposes;

S.J. Res. 74. Joint resolution to provide for the designation of the first full calendar week in May, 1971, as "National Employ the Older Worker Week";

S.J. Res. 172. Joint resolution to authorize the President to issue a proclamation designating the first full calendar week in May 1971 as "Clean Waters For America Week";

S.J. Res. 187. Joint resolution to authorize the President to designate the third Sunday in June, 1971, as "Father's Day";

S.J. Res. 226. Joint resolution to authorize the President to proclaim the period from May 9, 1971, Mother's Day, through June 20, 1971, Father's Day, as the "National Multiple Sclerosis Society Annual Hope Chest Appeal Weeks"; and

S.J. Res. 236. Joint resolution authorizing the preparation and printing of a revised edition of the Constitution of the United States of America—Analysis and Interpretation of decennial revised editions thereof, and of biennial cumulative supplements to such revised editions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Public Works, without amendment:

H.R. 956. An act to rename a lock of the Cross-Florida Barge Canal the Henry Holland Buckman lock (Rept. No. 91–1497);

H.R. 3107. An act to officially designate the Totten Trail Pumping Station (Rept. No. 91–1498);

H.R. 7334. An act to designate the lake formed by the waters impounded by the Libby Dam, Mont., as Lake Koocanusa (Rept. No. 91–1499);

H.R. 8933. An act to provide that the lock and dam referred to as the "Jackson lock and dam" on the Tombigee River, Ala., shall hereafter be known as the Coffeeville lock and dam (Rept. No. 91–1500);

H.R. 12564. An act to rename a pool of the Cross Florida Barge Canal "Lake Ocklawaha" (Rept. No. 91–1501);

H.R. 13862. An act to authorize the naming of the reservoir to be created by the Little Goose lock and dam, Snake River, Wash., in honor of the late Dr. Enoch A. Bryan (Rept. No. 91–1502);

H.R. 14683. An act to designate as the John H. Overton lock and dam the lock and dam authorized to be constructed on the Red River near Alexandria, La. (Rept. No. 91–1503);

H.R. 18858. An act to change the name of the West Branch Dam and Reservoir, Mahoning River, Ohio, to the Michael J. Kirwan Dam and Reservoir (Rept. No. 91–1504); and

H.R. 19855. An act to designate the lake formed by the waters impounded by the Butler Valley Dam., Calif., as Blue Lake (Rept. No. 91–1505).

By Mr. BYRD of West Virginia (for Mr. RANDOLPH), from the Committee on Public Works, without amendment:

H.R. 17750. An act to grant the consent of Congress to the city of Boston to construct, maintain, and operate a causeway and fixed-span bridge in Fort Point Channel, Boston, Mass. (Rept. No. 91–1507).

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

S. 4481. A bill granting and ceding to the city of Alexandria, in the State of Virginia, certain waterfront land along the Virginia shoreline of the Potomac River, and for other purposes (Rept. No. 91–1506).

By Mr. HRUSKA, from the Committee on the Judiciary, with amendments:

H.R. 14645. An act to amend title 18 of the United States Code to prohibit certain uses of likenesses of the great seal of the United States, and of the seals of the President and Vice President (Rept. No. 91–1508).

REPORT ENTITLED "TFX CONTRACT INVESTIGATION"—REPORT OF A COMMITTEE (S. REPT. NO. 91–1496)

Mr. McCLELLAN, from the Committee on Government Operations, submitted a report entitled "TFX Contract Investigation," which was ordered to be printed.

Mr. McCLELLAN subsequently said: Mr. President, I ask unanimous consent that any members of the Government Operations Committee who might desire to file individual views on the report just submitted on the TFX may have the privilege of doing so.

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

20TH ANNUAL REPORT OF THE ACTIVITIES OF THE JOINT COMMITTEE ON DEFENSE PRODUCTION—REPORT OF A COMMITTEE—SUPPLEMENTAL VIEWS (S. REPT. NO. 91–1509)

Mr. SPARKMAN. Mr. President, from the Joint Committee on Defense Production, I submit a report entitled "20th Annual Report of the Activities of the Joint Committee on Defense Production." I ask unanimous consent that the report be printed, together with the supplemental views of the Senator from Wisconsin (Mr. PROXMIRE).

The PRESIDING OFFICER (Mr. HUGHES). The report will be received; and, without objection, the report will be printed, as requested by the Senator from Alabama.

S. 4595—ORIGINAL BILL REPORTED ENTITLED "THE EMERGENCY RAIL SERVICES ACT OF 1970"—INDIVIDUAL AND MINORITY VIEWS (S. REPT. NO. 91–1510)

Mr. BYRD of West Virginia. Mr. President, on behalf of the able senior Senator from Washington (Mr. MAGNUSON), I report from the Committee on Commerce an original bill, and ask that the report be printed, together with individual and minority views.

The PRESIDING OFFICER (Mr. BELLMON). The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from West Virginia.

EXECUTIVE REPORTS OF COMMITTEES

As in executive session,

The following favorable reports of nominations were submitted:

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

James H. Gorbey, of Pennsylvania, to be a U.S. district judge for the eastern district of Pennsylvania;

Ralph B. Guy, Jr., of Michigan, to be U.S. attorney for the eastern district of Michigan;

Frederick M. Coleman, of Ohio, to be U.S. attorney for the northern district of Ohio; and

Clarence A. Butler, of Maryland, to be U.S. marshal for the district of Maryland.

Mr. STENNIS. Mr. President, from the Committee on Armed Services I report favorably 31 flag and general officer nominations in the Army, Navy, and Marine Corps. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Vice Adm. Paul Masterton, U.S. Navy, and Vice Adm. Luther C. Heinz, U.S. Navy, for appointment to the grade of vice admiral, when retired;

Vice Adm. William I. Martin, U.S. Navy, for appointment to the grade of vice admiral, when retired;

Rear Adm. James L. Holloway III, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Adm. John J. Hyland, U.S. Navy, for appointment to the grade of admiral, when retired;

John R. Chaisson, and sundry other officers, for promotion in the Marine Corps;

Arthur B. Hanson, for appointment to the grade of major general in the Marine Corps Reserve;

William C. Chip, and sundry other officers, for promotion in the Marine Corps;

Richard Mulberry, Jr., for appointment to the grade of brigadier general in the Marine Corps Reserve;

Lt. Gen. Harry Herndon Critz, Army of the United States (major general, U.S. Army), to be placed on the retired list, in the grade of lieutenant general.

Mr. STENNIS. Mr. President, in addition, I report favorably 947 promotions in the Air Force in grade of colonel and below; 2,944 appointments and promotions in the Navy in grade of captain and below; 854 appointments and promotions in the Army in grade of colonel and below; and 546 appointments in the Marine Corps in grade of captain and below. Since these names have already been printed in the CONGRESSIONAL RECORD, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

1st Lt. Jack T. Kline, U.S. Marine Corps, for appointment to the grade of captain;

Phillip L. Abold, and sundry other officers, for promotion in the Regular Air Force.

Franklin S. Achille, and sundry other Naval Reserve Officers Training Corps candidates, to be permanent ensigns in the Navy;

Perry Ahthe, and sundry other officers, for promotion in the U.S. Navy;

William H. Mason, and sundry other officers, for promotion in the Regular Army of the United States;

Wayne D. McConnell, for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list;

Helena M. Vernon, for reappointment in the active list of the Regular Army of the United States; from temporary disability retired list;

Thomas R. Ostrom, and sundry other persons, for appointment in the Regular Army;

Ronald L. Baggett, and sundry other persons, for appointment in the Regular Army of the United States;

Donald R. Ayers, and sundry other distinguished military students, for appointment in the Regular Army of the United States; and

Louis Acosta, and sundry other officers, for promotion in the Marine Corps.

BILLS INTRODUCED OR REPORTED

Bills were introduced or reported, read the first time, and, by unanimous consent, the second time, and referred or placed on the calendar, as follows:

By Mr. McCLELLAN:

S. 4592. A bill to amend title 17 of the United States Code to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recordings, and for other purposes; to the Committee on the Judiciary.

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

By Mr. McCARTHY:

S. 4593. A bill to implement certain provisions in the act of September 7, 1957 (71 Stat. 619), as amended, relating to the construction, maintenance, and operation of a stadium in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. PELL (for himself and Mr. MONDALE):

S. 4594. A bill to provide minimum health benefits to employees and their immediate families and to provide for the distribution of health benefits, for medical education, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. BYRD of West Virginia (for Mr. MAGNUSON):

S. 4595. A bill to authorize the Secretary of Transportation to provide financial assistance to certain railroads in order to preserve essential rail services, and for other purposes; placed on the calendar.

(The remarks of Mr. BYRD of West Virginia when he reported the bill appear earlier in the RECORD under the heading "Reports of Committee.")

S. 4592—INTRODUCTION OF A BILL TO PROVIDE FOR THE CREATION OF A LIMITED COPYRIGHT IN SOUND RECORDINGS

Mr. McCLELLAN. Mr. President, as chairman of the Senate Subcommittee on Patents, Trademarks, and Copyrights, I introduce, for appropriate reference, a bill to amend title 17 of the United States Code to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recordings, and for other purposes.

Information supplied to the Copyrights Subcommittee indicates a rapid increase in the unauthorized duplication and piracy of sound recordings. It has been estimated that as many as 18,000 illegal tapes are being produced each day depriving the record industry, its distributors, and performing artists of an estimated $100 million annually in tape sales. Recording artists and members of the musicians union are major victims of the record piracy racket because artists under contract loose royalties from the legitimate sale of albums and tapes, and the percentage of the sales price of each record that would normally go to the music performance trust funds and the musicians themselves is not conveyed by the pirates to the fund. Furthermore, Federal, State, and local governments are deprived of tax revenues they would otherwise receive from record manufacturers. The consumer is harmed by the frequently inferior quality of the pirated records and tapes.

Because the illegal duplication of recordings is rather simple, it affords a lucrative activity for organized crime. The pirates purchase for a few dollars a tape or record which represents to the record company substantial recording and manufacturing costs, transfer mechanically the music from the legitimate record or tape to the pirated tape and sell it at reduced cost in competition with the legitimate tape. Thus, the pirates, with virtually no financial investment, sell under their own labels, or with no label identification at all, the recordings of others. On the other hand, the costs to the record manufacturer of producing and promoting a modern album or tape can well be over $100,000.

Not surprisingly the pirates produce those albums that are proven money makers. It is well known that a substantial percentage of the recordings of classical music, such as operas and symphonies, do not make a profit. The sales of classical records have been further reduced by off-the-air taping. If the income of record manufacturers from the sale of popular records is significantly harmed by the activities of the pirates, this will further reduce the ability of such manufacturers to produce new recordings of classical music.

The existing U.S. copyright law, enacted in 1909, does not grant copyright protection to the owner of a sound recording. The remedies available to record manufacturers under State law are inadequate. Consequently, the Copyrights Subcommittee, in reporting the pending legislation for a general revision of the copyright law, included provisions establishing a limited copyright in sound recordings. The bill which I am introducing today is based on the provisions contained in S. 543, the copyright revision bill.

The earliest feasible effective date for the implementation of the general copyright revision bill is January 1, 1973. While the revision bill has been making its slow and tortuous progress through the legislative process, the Congress has endeavored by the passage of several joint resolutions and by various informal understandings to preserve the rights and equities of all parties. The widespread unauthorized duplication of recordings is causing irreparable injury to the record industry, performers, and the public. It may therefore be desirable for the Congress to act on this issue independently of the general revision bill.

The bill which I am introducing today seeks to combat record piracy by establishing a limited copyright in sound recordings. Alternative remedies, such as a criminal statute, may also have merit. The subcommittee can review this matter further in the 92d Congress. In the meantime any individuals having views on this subject should address their comments to the subcommittee.

I ask unanimous consent that there be printed at this point in the RECORD an article on piracy and counterfeiting of records and tapes which appeared in the Wall Street Journal on November 30.

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

The bill (S. 4592) to amend title 17 of the United States Code to provide for the creation of a limited copyright in sound recordings for the purpose of protecting against unauthorized duplication and piracy of sound recordings, and for other purposes, introduced by Mr. McCLELLAN, was received, read twice by its title and referred to the Committee on the Judiciary.

The article presented by Mr. McCLELLAN is as follows:

HOT NUMBERS: PIRATES AND COUNTERFEITERS OF STEREO TAPES STEAL HUGE SALES AND GIVE THE INDUSTRY FITS

(By Stephen Grover)

NEW YORK.—Heard about those hot new recording groups that are cutting new stereo tapes almost daily? One's called The Pirates, and the other is The Counterfeiters. They've got the whole industry talking.

Actually, muttering is a better word.

The pirates and the counterfeiters are real pirates and real counterfeiters. The pirates make illegal copies of tapes and peddle them cheaply to record shops, unabashedly admitting that they are pirated copies. The counterfeiters make illegal copies but then go a step further and copy the packaging that the originnal comes in, too; the counterfeiters then palm off their work as the original.

Last year the two groups sold about $100 million in copied tapes, accounting for about a fourth of all tapes sold, according to Jules Yarnell, counsel for the Recording Industry Association of America. This year the figure is believed to be sharply higher.

Pirating and counterfeiting musical works is nothing new; records have been copied illegally for years. But tape piracy is far easier than record piracy, and thus is far more of a problem for the industry. Record piracy has never accounted for more than 5% of total record sales, industry officials say. Last year the figure was 5%, equal to sales of about $60 million, the officials estimate.

WILL PRICES GO DOWN?

This big threat to the blossoming tape industry could have either of two major repercussions: The legitimate tape makers might cut the prices of their stereo tapes to try to make the copies less of a bargain and therefore less attractive to retailers. Or "it could mean the destruction of the business," one executive says.

No one really expects the industry to be killed by the pirates, but neither does anyone expect the pirates to be knocked off by the industry. Alarmed record companies have filed more than 100 lawsuits against pirates and counterfeiters in recent weeks, but "no sooner do we win one suit than another three counterfeit operations spring up," says a lawyer for one recording company.

The problem is simply that counterfeiting tapes is one of the easiest ways to make an illegal bundle. "You don't need metal presses or any of the other expensive equipment it takes to make records," says Henry Brief, executive secretary of the Recording Industry Association. All a person needs is a tape recorder, a tape playback deck and some machines that will produce many copied tapes at a time. "The cost of going into business as a tape pirate or counterfeiter is less than $10,000," says one person in the industry.

THE GRAND FUNK RAILROAD

There are other advantages. The pirate doesn't have to bother with the expenses of developing talent, promoting it, paying royalties when a recording is a hit or swallowing huge losses if a recording is a flop. Thus, the pirates and counterfeiters often get a high return on their investment. They often get $20 or more for a tape that cost them only 95 cents to produce—and that legitimate record companies sell for $6.95.

Pirates and counterfeiters often make as many as 5,000 copies of a hit tape, and they seem to have little difficulty selling them. Many record retailers regularly sell pirated tapes under the counter, and a few sell them openly. Capitol Records, for example, alleges that a Minnesota chain was recently advertising "a fresh shipment of regular $6.95

stereo tapes for only $2.99 each" and that the tapes included two pirated tapes by the Grand Funk Railroad, which is a rock group under contract to Capitol.

Capitol has sued the stores, which say they are blameless. Indeed, it's unclear what laws are broken by sellers of pirated records outside New York and California. There is a Federal law that prohibits the sale of counterfeited tapes, but only New York and California have statutes that specifically forbid the sale of pirated tapes. Some companies win actions that are based on the ground of "unfair competition," but these actions are long and costly.

The companies are pressing for more state laws against pirating and for changes in the U.S. copyright law to bar counterfeiting and piracy. At the moment, the copyright law applies only to the work performed, not to the performance; that is, if a pirate tapes a number rendered by the Grand Funk Railroad and written by the Beatles, the Beatles but not the Grand Funk Railroad would have an action for copyright infringement. The Beatle's action could be brought against both the pirate and the seller.

TAKING THE OFFENSIVE

"We know that tougher laws aren't the complete answer," says an industry executive, "but it would be a start. They have laws against piracy in Canada, and the problem there isn't a serious one anymore." The industry also complains that the New York and California laws are too lenient; they make the offense a misdemeanor and provide for a maximum sentence of a year in jail.

Record companies find it especially galling that some pirates have taken the legal offensive. In the past, two groups, Tape-a-Tape of Chicago and Tape Industries Association of America in Los Angeles, have made pirated tapes and made no bones about it. Each of their copied tapes carries this message: "No relationship of any kind exists between Tape-a-Tape (or Tape Industries Association of America) and the original recording company, nor between this recording and the original recording artist. . . . Permission to produce this tape has not been sought or obtained from any party whatsoever."

Both groups were sued by record companies on the ground of unfair competition, and both groups lost. The California company, however, is appealing to the Supreme Court. It says clothing makers are allowed to copy famous designs, and it argues that "the Supreme Court held an Illinois law on unfair competition could not Constitutionally be applied to prevent a competitor from copying the designs and selling identical products simply because consumers might be confused about the source of the product."

The judge in the lower court refused to accept that argument. He ruled that pirated tapes "actually take and appropriate the product itself—the sounds recorded on the albums—and commercially exploit the product."

A DIFFERENT ARENA?

Some people maintain that instead of fighting in court the tape companies should fight the pirates in the marketplace. "They could solve their problem if the record companies cut their listed prices," asserts one buyer of pirated tapes. "It still costs about a dollar more to buy a stereo cartridge than it does to buy a record containing the same music. That's just too much money."

Tape companies argue that their heavy overhead costs—royalties, promotion and the like—prevent them from reducing prices significantly. And they say that even if they cut expenses to a minimum they could never possibly approach the low prices offered by pirates and counterfeiters.

But industry officials do admit that if the pirates keep increasing their share of the market the industry will have to take a long, hard look at its pricing practices.

S. 4594—INTRODUCTION OF THE MINIMUM HEALTH BENEFITS AND HEALTH SERVICES DISTRIBUTION AND EDUCATION ACT OF 1970

Mr. PELL. Mr. President, I introduce, on behalf of myself and Mr. MONDALE, for referral to the Committee on Labor and Public Welfare, a bill to provide for the improved accessibility and availability of comprehensive health care services to all citizens, to provide for the creation of areawide health services and health education corporations, and to provide a minimum level of health benefits to employees and their families. My bill is to be entitled "The Minimum Health Benefits and Health Services Distribution and Education Act of 1970."

THE HEALTH CARE CRISIS

Mr. President, there are few other public policy problems of the magnitude, of the complexity, and of the seriousness of the health care crisis that is facing our Nation today.

By most every standard, the way this country cares for the health needs of its citizens can be judged inadequate.

We have an unorganized and very expensive nonsystem of health care which provides fine curative care to persons who can afford the care, which provides comparatively little curative care to most other persons, and which provides almost no preventive care to any person whether he can afford the care or not.

Babies die because their mothers were unable to obtain the prenatal and postnatal care they required.

Elderly persons die of diseases that could have been cured had they had regular medical examinations earlier in their lives.

Simple sickness becomes serious illness for the lack of early treatment.

Persons becoming suddenly ill or hurt can rarely obtain timely physician service and must be shuttled off to distant, crowded emergency rooms for cattle-car treatment of their illness or injury.

New miracle drugs are discovered, but they go unused because people cannot afford them.

Medical research provides us with machines and organs to assist or replace our hearts and our kidneys, but many people still die because costs and limited production make those advances unavailable to them. For example, in 1910 the death rate per 100,000 population was 287 for cardiovascular disease and 76.2 for cancer. In 1966 the death rate per 100,000 population was 520 for cardiovascular disease and 154.8 for cancer, that is nearly a doubling in the rates for those causes of death.

As the cost of health care continues to skyrocket, more people become reluctant to obtain the preventive health care they need.

Even with increased wages, more and more workingmen are becoming less and less able to pay for the health care their families need.

Medical care prices in the last 3 years have been rising at nearly twice the rate of the overall Consumer Price Index.

Although we spend more money on health care than any other country in the world, over $63 billion per year, and although we spend more money per capita than any other nation, $315 per person a year, we are still not bringing adequate health care to all of our people. We rank 11th in terms of female life expectancy, 12th in terms of maternal mortality, 14th among countries in terms of infant mortality rates, 16th in terms of the percentage of males who die between the ages of 40 and 50 years of age, and 18th in terms of male life expectancy.

Many people question this situation. They ask: "How is it that the country that can put men on the moon and that can put nuclear submarines under the North Pole, cannot put adequate health care services within the reach of each of its citizens?"

I suppose the answer rests in the nature of our national commitments. As I see it, the reasons why our American genius for developing sophisticated technology and for organizing armies does not extend to the provision of health care services are basically three in number.

First, we have organized ourselves to develop an industrial technology that is primarily required to provide for national defense. Nationwide corporations work hand in hand with our national defense machinery. Guns are exchanged for subsidized technological research. But no similar symbiotic relationship exists for health care. There is no overall organization or firm commitment to a national health care purpose within the health industry and within the public sector.

Second, we have had no awareness of the health crisis that faces us. We have been somewhat blinded by a dreamy-eyed faith in the capacity of the American economy and in the quality of American life. We have let Madison Avenue convince us that everyone is a member of the Pepsi generation—that no one gets sick in America.

And, third, we have somehow expected the invisible hand of the marketplace to supply us with all the health services we require. We have expected a cottage industry of private physicians and charitable hospitals to provide us with the same quantity of services as the quantity of goods we have been accustomed to receiving from our corporate dominated economy. We have expected health services to be produced as easily as we produce Fords and color televisions.

Even though we have had shortages of many thousands of doctors, nurses, and physicians; even though we have had and still have many areas of the country which lack needed medical facilities; even though we realized that private health insurance policies by their reimbursement policies were encouraging the needless use of the most expensive forms of health care, such as hospital bed care; and even though our medical schools are all going bankrupt, we still have been reluctant to make a national commitment necessary to the restructure of our system of delivering and financing health care.

A NEW APPROACH

Mr. President, I believe that the time is now at hand to act. I believe, as I mentioned in my speech a year ago, that, in the 92d Congress, we must act to provide for a radical restructuring of the financial organizational foundation of our Nation's health care system. I believe health care for all citizens should be our first priority. For that reason, I introduce today the Minimum Health Benefits and Health Services Distribution and Education Act of 1970.

I believe my bill represents a uniquely American and a uniquely comprehensive approach for solving our national health care crisis. It does not represent a plan for socialized medicine. It does not represent a plea for another large, never-ending Federal grant program. And, it does not represent a knee-jerk emotional approach toward a very complicated problem.

My bill is an attempt to develop a total systems approach to the health care problem. It is an attempt to create a closed system of health care financing, delivery, and education which will eventually be capable of operating as a self-sufficient system within our economy. And, it is an attempt to utilize some basic principles of public resource management and corporate finance in the best interests of the health needs of the Nation.

My bill is based on principles that are probably as well understood by economists as the principles upon which national health insurance plans are based; however, my application of these principles to the health care problem may well be considered too innovative. It is for this reason that I am introducing my bill at this time—at the end of the session. I am hopeful that after the general public and those particularly concerned with health care problems have had the opportunity to reflect upon the merits of my plan, they might be more ready to accept it and provide me with suggestions for improvement when I introduce it again in the next session of Congress.

I also am introducing my bill at this time in order that it will come within the reporting provisions of my study amendment to the recently enacted Health Improvement Act of 1970. My amendment requires the Secretary of the Department of Health, Education, and Welfare to report by March 1971, on national health care proposals introduced in this Congress and to complete a detailed systems analysis of alternative approaches to national health care, such as my own, before September 1971. I look forward to the Department's analysis of my bill.

MINIMUM HEALTH BENEFITS

The first key feature of my bill is my method of providing health benefits. I do not call for another tax on the workingman. I do not call for the Federal Government to make large payments to pay for health benefits. I do not call for a heavy tax on businesses. I simply ask that an employee be guaranteed a minimum level of health benefits by his employer, just as he is guaranteed a minimum wage. I use this minimum wage approach for a number of reasons.

Anyone who examines the present Federal budgetary situation from a national priorities point of view cannot help but to come to two basic conclusions. First, even with the ending of the Vietnam war, there will not be a large amount of additional funds available for major new initiatives for some time; and second, if new funds are to become available, new general taxes are going to have to be levied to provide for those additional funds, and neither business nor labor wants to pay more taxes. This I avoid in my plan.

Presently the average workingman pays about a third of his overall income for Federal, State, and local taxes. If additional Federal income taxes are levied, and if a national health insurance tax is added to the present employment taxes paid for social security, the workingman's tax burden may well become unbearable. Moreover, many small businesses would also have financial difficulty with an additional employment tax for national health insurance.

This tax situation and the limited Federal budgetary situation has lead me to search for a more reasonable alternative for the financing of health care than a national health insurance scheme which is dependent on more taxes on employee wages, on more taxes on employers, and on more money from the Federal Treasury.

Thus, I am proposing making a minimum level of health care services a direct cost of producing the country's gross national product. I am suggesting an "in kind" tax.

I am suggesting that every wage earner should not only be entitled to a minimum level of wages adequate to support his family as consideration for his labors, but he should also be entitled to a minimum level of health care benefits for himself and his family.

These minimum benefits would be primarily preventive in character and emphasize annual medical examinations and the use of ambulatory medical facilities care, which is the most economical and sensible way of approaching the problem. These benefits would emphasize walking care rather than death bed care. Curative benefits would be scaled to the employee's pocketbook and his medical condition. He would have to pay for the first 2 days of direct care, but the next 12 days of care would be provided as benefits. If the employee is simply recuperating rather than actually receiving direct medical treatment, he will be entitled to 10 days in a long-term care facility if a doctor so recommends. Costs of catastrophic illness exceeding one fourth of a worker's annual income is also provided as a benefit.

Most employees have already some coverage of curative benefits, such as hospitalization coverage, so the minimum benefits provided would be complimentary to those policies and would thus tend to reduce the pressure on the use of more expensive hospital care, which is now where most high cost reimbursable care is obtained under health insurance.

This approach would have the twin anti-inflationary effects of, one, reducing the use of expensive care facilities, and two, of the increasing of the bargaining power of the health consumer through the bargaining power of an employer who would, of course, have the incentive to contract for low cost health coverage for his employees. To reduce his costs the employer would be expected to contract for a prepaid health plan or to provide the health services directly himself as some industries, such as Kaiser, presently do.

For those businesses which might face unusual financial difficulties in providing benefits to their employees, I allow the Secretary of Health, Education, and Welfare to exempt them for a period up to 5 years or to provide matching per capita grants on prepaid health insurance plans for the cost of employees' benefits.

The exemption period would allow for a period of adjustment and planning for those businesses that may have long-term wage contracts or which may be facing unusual financial hardships.

AREA HEALTH SERVICES AND HEALTH EDUCATION CORPORATIONS

The second key feature of my bill is the means by which I would make health services available to all persons and the means by which I would provide for the education of necessary health personnel. I propose the creation of federally chartered corporations which would have all the advantages of modern business organizations plus all the advantages of a monopolistic public service agency. These corporations would be a means of getting the health care that people need to them and a means of supplying health manpower where it is lacking.

These corporations would be partially modeled upon the health maintenance organizations recommended by the Department of Health, Education, and Welfare, the area health education centers recommended by the Carnegie Commission on Medical Education, the health care corporation suggested by a study group of the American Hospital Association, and upon the form of a federally chartered corporation as encompassed in Public Law 91–518, the Rail Passenger Service Act of 1970, which has existing providers of service exchanging their assets for stock in a Federal corporation.

Areas of the country would have a number of incentives for supporting the incorporation of area health service and health education corporations.

Most areas of the country now lack the facilities and medical manpower needed to provide comprehensive health services to their citizens. Area corporations could fill this need.

Most areas of the country now lack the means for educating the health manpower they need. The Carnegie Commission on Higher Education has listed 126 areas where area health education centers should be established. Area corporations could provide for the balanced distribution of medical manpower among all regions.

Corporations could provide a means for an area to organize all its fragmented health services under one umbrella. Health providers would have a number of incentives for coming under a Federal corporate umbrella.

Existing providers of health services, such as doctors, hospitals, and medical

schools could exchange their assets for stock in the corporation and receive the numerous financial and organizational benefits to which the corporation is entitled, including the ability to issue tax-exempted bonds guaranteed by the Government, including priority consideration in existing Federal grant programs and including eligibility for new Federal grants and loans provided for the initial operation of new corporations. Also, doctors would be able to reduce their medical liability and receive tax benefits by becoming corporate employees.

For employers in an area, corporations would be a low cost option for the provision of health benefits to their employees.

For State governments, corporations would be a low cost provider of medicaid services.

For the Federal Government, corporations would be a low cost provider of medicare services.

For a region's economy, the existence of an area health corporation would have a competitive effect on other providers of health services in the region and would tend to force down the price of health care.

After incorporation, the Secretary would appoint eight members of a corporation's 15-member board of directors, common stockholders—who would be those hospitals, medical schools, and doctors who have exchanged their assets for stock—would elect three directors, and preferred stockholders—such as health insurance companies—would elect four directors.

The majority of the board of directors would be weighed toward public interest representation. Of the eight members appointed by the Secretary, two members would be representative of qualified medical personnel, one member would be representative of medical education personnel, one member would represent the Secretary, one member would represent the State and local political subdivisions, and one member would represent health consumers.

The primary purpose of the corporations would be to provide an area with comprehensive health services on a prepaid basis and to educate the health personnel an area needs.

Through the corporate structure the cost of medical education would be merged into the cost of delivering health services. Over the long run, the demand for health services in an area would be expected to pay the full cost for the supply of health services and for health manpower in an area through the use of a corporation.

Corporations would be expected to operate neighborhood health centers within their areas of services and be able to provide either directly or by contract all levels of medical care from the level of intensive care down to the level of long-term care. They would be expected to handle medicaid and medicare beneficiaries.

Corporation health services would be provided primarily on a prepared per capita contract basis rather than on the more costly, and inefficient, traditional "fee for service" and "reimbursement for cost" method.

Since area corporations would have the power to raise funds through federally guaranteed tax-exempted bonds, since they would have a steady program of income from employers paying for the minimum health benefits due to employees, they should only require a minimum of Federal grants and loans for the initiation of their services.

Thus, in order to put the corporations on their feet, the Secretary of Health, Education, and Welfare is authorized to provide grants and loans under existing public health legislation or provide assistance through the new loans and grants authorized in the bill.

If an area lacks health personnel, the Secretary can assign, temporarily, Public Health Service personnel until sufficient area health personnel is trained.

For services which corporations provide to indigent persons or to persons employed by small businesses and charitable organizations not capable of paying for their health benefits, they would be reimbursed by the Secretary on percentage per capita basis depending upon the ability of the corporation to absorb those costs.

Corporations would be required to maintain high standards of medical quality and medical education and financial accountability. Each corporation would be required to submit on an annual basis a 5-year program financial plan to a regional planning agency in order that their operations and financing plans be coordinated within their State health plans and their regional health plans.

As a general rule, given all the corporate and public advantages provided in my bill, area health services and health education corporations might be expected to become completely self-sufficient economic entities within, at most, 25 years. Given the benefits of preventive care and comprehensive health care services provided by health corporations, the standards of good health for the population within a corporation's service area could be expected to improve significantly after, at most, 10 years of coverage.

I would add with a note of pride, that my own State of Rhode Island—the home of Aime Forand, the father of medicare, and the home of the late John Fogarty, a long-time crusader for health research—has been moving ahead with the ideas I have suggested. The AFL–CIO in Providence is establishing a prepaid group health care plan. A statewide public corporation to do health care demonstrations is being formed by the State department of health in conjunction with the hospitals in the State, the Brown University medical education faculty, and other interested health personnel. Hopefully, with the assistance of a Federal grant coming under a program I helped make law, this public corporation will make my State a model health care State.

REGIONAL HEALTH PLANNING COUNCILS

Mr. President, the third key feature of my bill is the method of providing for the rational allocation of health resources within the country.

I propose the establishment of regional health planning councils in each major geographic region of the country. These councils will have the responsibility of insuring that adequate plans are being made for the provisions of health services to each citizen and that adequate plans are being made for the education of needed health personnel and for the construction of needed health facilities.

Members of the regional planning councils would include representatives of State Governors, medical societies, and area health corporations. Regional planning councils would have the responsibility of approving State health plans and the program financial plans of area corporations. They would be responsible for submitting on an annual basis regional health care plans to the Secretary of Health, Education, and Welfare for his approval. Federal funds would not be sent on projects not included within an approved regional plan.

ADVANTAGES OVER THE NATIONAL HEALTH INSURANCE APPROACH

Mr. President, a fourth key feature of my bill is that it is, on the one hand, complementary to a national health insurance approach and it has, on the other hand, a number of advantages over the national health insurance approach.

It is complementary to a national health approach in that, if a national health insurance program were to be enacted, it would still require mechanisms, such as my bill's area health services and health education corporations, to supply the health services and health manpower that would be required to meet demand.

However, my bill has a number of distinct advantages over the national health insurance approach.

It not only provides health benefits for people, but it provides a method of getting those benefits to people.

My bill does not eliminate market forces as a regulator of health prices, but it creates a planned and balanced marketplace regulated for quality and providing a role for private enterprise.

By making employers the health consumers, the bargaining power of health consumers is increased. By making area health corporations provide health services on a comprehensive prepaid basis, an economical supply of health services is created. My bill, thus, creates a balance between supply and demand which has a built-in anti-inflationary tendency.

Also, my bill does not have a burdensome employment tax on workers or on businesses.

Rather my bill provides that, while a minimum standard of health benefits be provided employees, employers have up to 2 years to provide them, and, if any economic hardship is involved, up to 5 years. This means that, when wage agreements are being negotiated, employers would be able to include the cost of meeting these minimum health equipments as part of all of any new wage agreements.

Moreover, along that same line, my bill does not force employers to pay for health services for their employees

through a Federal tax which is based upon costs over which they have no control and through a tax set according to national health care prices which might be higher than the actual prices of providing care in an employer's own particular area.

My bill provides a means for partially solving the financial crisis faced by our Nation's medical schools and provides a means of reducing the tremendous shortage of health manpower that exists in the country today.

And, finally, it creates a decentralized system of health care which can become, eventually, economically self-sufficient and independent of any future need for extensive Federal appropriations.

Mr. President, in sum, the failure of this country to provide adequate health services to its citizens is a most serious matter.

I offer a suggestion, for all to consider, as to a means of remedying our national health care crisis.

Today, I offer a bill to make health care our first national priority.

I offer a bill not only to guarantee health benefits to every citizen, but also to provide a means for getting those benefits to the people.

I offer a bill designed to make medical care a matter of "walking care" not "death bed care."

I offer a bill designed to take health care out of the Federal budget and make it self-supporting.

I offer a bill designed to halt inflation in health care costs by balancing health care supply and demand.

I am hopeful that my bill will meet these expectations, and I look forward to receiving the comments of interested persons on my bill.

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

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

The bill (S. 4594) to provide minimum health benefits to employees and their immediate families and to provide for the distribution of health benefits, for medical education, and for other purposes, introduced by Mr. PELL, for himself and Mr. COOK, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4594

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Minimum Health Benefits and Health Services Distribution and Education Act of 1970."

TITLE I—FINDINGS, PURPOSES, AND DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress hereby declares and finds that: (1) the lack of adequate health care services available at reasonable costs to every citizen has had a detrimental effect upon the public health, safety, welfare, and economy of the Nation, (2) the good health of every citizen is fundamental to the productivity of the economy and for the general welfare of the country, (3) adequate health care services should be available and accessible to every citizen, (4) every citizen has a right to obtain adequate health care services for himself and his family as consideration for his labor, (5) the cost of health care services should be borne as a cost of producing the Nation's goods, services, and overall wealth, (6) employees and their immediate families have a right to receive from their employers minimum health benefits, and (7) the Federal Government has an obligation to insure that each area of the country has adequate health personnel and facilities organized to provide efficient, effective, comprehensive, and high quality health services to area resident.

DEFINITIONS

SEC. 102. When used in this Act—

(a) The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa;

(b) The Term "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(c) As used in this Act, the term "comprehensive health services" means health care services to an identified population group in a primary service area and its environs on the basis of contractual arrangements for the provision of health maintenance, specialty, primary, restorative, and health-related care. Comprehensive health services include annual physical checkups; multiphasic screenings; ambulatory diagnostic and treatment services; necessary immunizations; surgery; anesthesia services; radiation therapy—in and out of the hospital; diagnostic X-ray services in a hospital; laboratory and pathology services in a hospital; in-hospital medical care—including concurrent care; care for pulmonary tuberculosis, mental disorders, drug addiction and alcoholism; obstetrical care; emergency treatment for accidential injury; consultation services; out-of-hospital diagnostic X-ray and laboratory and pathological services; physical therapy; home and office care; newborn care; physical examinations; outpatient psychiatric care inhalation therapy; ambulance service; phasthetic appliances and orthopedic braces; private duty nursing, care; drugs; vision care extended care services which are not post-hospital care services and other health services which are approved by the Secretary as appropriate for corporations created by title III of this Act;

(d) The term "corporation" means the area health services and health education corporations created by title III of this Act;

(e) The term "minimum health benefits" means the entitlements which are created in title II of this Act;

(f) The term "business associations and other entities engaged in commerce" means any organization or entity engaged in interstate commerce or affected with a Federal interest (entities shall be deemed to include the United States Government, States, and local political subdivisions which receive Federal financial assistance);

(g) The term "regional planning council" means the planning agencies created by title V of this Act for the purpose of securing effective allocation of health services and resources within a region of the United States;

(h) The term "program financial plan" means a plan which would be considered as an element of the program planning and budgeting system as defined by the Office of Management and Budget in the Office of the President and which each corporation created by this Act shall have the responsibility for developing;

(i) The term "castastrophic illness" means any illness or injury and associated medical care which would cost a patient more than 25 per centum of his gross income within a twelve-month period;

(j) The term "qualified provider" means any person, facility, or agency which meets the requirements of this Act for the provision of medical care within a corporation or through a contract with a corporation; and

(k) Unless otherwise stated, terms used in this Act are to be defined as they are defined in the Public Health Service Act, as amended (58 Stat. 682; 42 U.S.C. 201 et seq.), and in its legislative history.

TITLE II—BASIC HEALTH BENEFITS

PROVISION OF BASIC HEALTH BENEFITS

SEC. 201. Business associations and other entities engaged in commerce shall provide to their employees and families, as a cost of doing business, a minimum level of health benefits as defined in this Act and as further defined by regulations issued pursuant to the authority of this Act. Entities may provide minimum health benefits directly themselves; or by prospective contracts with providers of health services; or by contracts for comprehensive prepaid care plans; or through other means which are deemed economical and appropriate.

MINIMUM HEALTH BENEFITS

SEC. 202 (a) Each employee and his family in the service of a business association or other entity shall be entitled to receive from such entity the basic health benefits described herein and as further described in regulations issued by the Secretary.

(b) Minimum health benefits on a per annum basis shall be the following entitlements:

(1) one complete diagnostic examination and associated tests sufficient to analyze a person's overall medical condition;

(2) such visits to a physician, an outpatient clinic, or other ambulatory health facilities which may be necessary for treatment of an illness or injury or necessary for the prevention of illness or injury;

(3) twelve days of medical care within an intensive care or intermediate care unit, beyond the first two days of medical care, for treatment of a serious illness or injury, or for surgery;

(4) ten days of care within a long-term care unit necessary for recovery from a serious illness, accident, or surgery;

(5) services provided for in hospital emergency rooms for serious injuries or illnesses requiring immediate attention;

(6) physician, hospital, and diagnostic services associated with child delivery and prenatal care;

(7) professional services of physicians, furnished in their offices or elsewhere, consisting of preventive, primary or surgical or special care, which is provided in conjunction with the other basic entitlements of this section relating to the extent of treatment and care allowed;

(8) Paramedical and other support systems, such as provided by pathology and radiology laboratories, which are required in conjunction with the other basic entitlements of this section relating to the extent of treatment and care allowed;

(9) the professional services of optometrists in refractive measurement of the eye and in prescribing eye glasses, the professional services of podiatrists and chiropractors and the provision of therapeutic devices, appliances, equipment if such professional services or such equipment s important to the maintenance of employability of an employee or member of management;

(10) drugs which are provided in conjunction with the other basic entitlements of this section relating to the extent of treatment and care provided and which have been approved for use by the Secretary; and

(11) coverage by an employer of the costs associated with catastrophic illness within the limitations prescribed by the Secretary.

LIMITATIONS ON MINIMUM BENEFITS

SEC. 203. (a) The Secretary is authorized to issue regulations to insure a high quality of minimum benefits provided, to insure that

provision of minimum benefits to recipients is a medical necessity unless the minimum benefits have a preventive purpose, to provide for a hearing for alleged denial of benefits, to require entities providing minimum benefits to utilize professional health services and facilities which are properly accredited, to establish uniform levels of basic benefits as prescribed in this Act, and to define within the boundaries of this Act the scope of minimum benefits provided or excluded.

(b) Minimum benefits do not include personal comfort items or, unless required for medical reasons, the additional cost of accommodations more expensive than semi-private accommodations; and do not include domiciliary or custodial care or institutional care of a person while he is not receiving active medical treatment.

(c) Minimum benefits do not include long-term care of an inpatient unless a physician has certified to the medical necessity of the patient's admission to the institution, and do not include such care (during a continuous stay in the institution) after such period (if any) as may be specified in regulations unless a physician has certified to the continued medical necessity of such care.

(d) Health services furnished or paid for under a workmen's compensation law of the United States or a State, or otherwise legally required to be so furnished or paid for, are not covered services. Such services, if furnished by a provider, shall nevertheless be treated as covered services in accordance with this Act unless and until a determination has been made pursuant to the workmen's compensation law that the services are covered by that law.

(e) Health services furnished in a primary or secondary school are not covered services.

(f) Surgery performed solely for cosmetic purposes (as defined in regulations), and hospital or other services incident thereto, are not covered services.

(g) The furnishing of a drug otherwise than in accordance with section 202 is not a covered service. The furnishing of a device, appliance, or equipment otherwise than in accordance with section 202 is not a covered service.

(h) The Secretary may by regulations exclude from covered services medical or surgical procedures (and services incident thereto) which he finds are essentially experimental in character and which, because of cost or because of shortage of qualified personnel or facilities, he finds cannot practicably be furnished on a nationwide basis.

DENIAL OF ENTITLEMENTS

SEC. 204. A person entitled to minimum benefits who has been denied provision of those benefits may sue in the Federal district court nearest to his residence for the costs of his lost benefits, damages which may be reasonable, and for an order of the court requiring his employer, or the entity with which he is associated, to provide the minimum benefits to which he is entitled. Upon the finding of a Federal district court that a person entitled to benefits has been denied those benefits or a finding that an entity has refused to provide the required benefits, the President, upon the advice of the Secretary, shall order the withholding of all Federal funds, services to, or contracts with, such entity. Such entity will be entitled to an appeal hearing before the Secretary upon the full record of the district court.

SEC. 205. This title shall become effective two years after the enactment of this Act.

SEC. 206. Upon a determination by the Secretary that the provision of minimum health benefits, because of long term wage contracts or for other reasons, would impose an undue burden upon the financial condition of a business association, the Secretary shall exempt the business association from the requirements of this title for a period of not longer than five years from the date of enactment.

TITLE III—CREATION OF AREA HEALTH SERVICES AND HEALTH EDUCATION CORPORATIONS

CREATION OF CORPORATIONS

SEC. 301. (a) There are authorized to be created area health services and health education corporations. The corporations shall be for-profit corporations, whose purposes shall be—

(1) to provide comprehensive health services to an identified population on a convenient and accessable basis in or near a specified service area, through contractual arrangements which embody prepaid group practice, or other definitive arrangements which will so far as practicable provide the benefits of prepaid group practice;

(2) to provide through contractual arrangements minimum health benefits to which persons may be entitled from a contractee;

(3) to provide for the education and development of qualified physicians, nurses, paramedical and other health personnel necessary to provide comprehensive health services and minimum health benefits to an identified population in or near a service area; and

(4) to provide for the construction, rehabilitation, maintenance, and operation of facilities required to provide comprehensive health service, minimum health benefits, and for the education and development of health personnel.

(b) The corporations shall be subject to the provisions of this Act and to the extent consistent with this Act, to the provisions of the District of Columbia Corporation Act. The right to repeal, alter, or amend this Act at any time is expressly reserved. Medical personnel serving in the employ of corporations shall not be liable for negligence within the scope of their professional duties pursuant to their employment. A corporation shall be liable for the negligence of its employees.

(c) Corporations and their property shall be deemed to be instrumentalities of the United States engaged in furtherance of interstate commerce.

PROCESS OF ORGANIZATION

SEC. 302. (a) Upon a determination by the Secretary that a corporation is needed in a defined area, the President of the United States shall appoint not fewer than three incorporators for the corporation, who shall serve as the board of directors for one hundred and eighty days following their appointment. The incorporators shall take whatever actions are necessary to establish the corporation, including the filing of articles of incorporation, as approved by the Secretary.

(b) The Secretary shall make a determination of the need for area health services and health education corporations in an area upon consideration of the following factors—

(1) the lack of reasonably priced comprehensive health services within the area;

(2) the lack of health manpower resources needed to provide health services within the area;

(3) the requests of public and private entities within the area for the establishment of a corporation;

(4) the willingness of existing providers of health services and health education to enter into contractual arrangements with a corporation and to contribute in capital or in kind to the assets of the corporation;

(5) the relationship of the establishment of a corporation in the area to the overall health needs of the region;

(6) the recommendations of State and regional planning agencies; and

(7) the future probability of the corporation becoming a self-sufficient economic entity without need of Federal assistance after twenty years of operation.

DIRECTORS AND OFFICERS

SEC. 303. (a) A corporation shall have a board of fifteen directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Eight members of the board shall be appointed by the Secretary, for terms of four years or until their successors have been appointed and qualified, except that the first three members of the board so appointed shall continue in office for terms of two years, and the next three members for terms of three years. Any member appointed to fill a vacancy may be appointed only for the unexpired term of the director whom he succeeds. At all times the members appointed by the Secretary shall include one member representing the Department of Health, Education, and Welfare, two members representing qualified medical personnel, one member representing qualified health education personnel, one member representing qualified health services organizations, one member representing the interests of the major political subdivisions within the area, and one member representing the interests of the health consumers in the area. Three members of the board shall be elected annually by common stockholders, and four shall be elected annually by preferred stockholders of a corporation. The members of the board appointed by the Secretary and those elected by common stockholders shall take office on the one hundred and eighty-first day after the appointment of incorporators. Election of the remaining members of the board shall take place as soon as practicable after the first issuance of preferred stock by the corporation. Pending election of the remaining four members, seven members shall constitute a quorum for the purpose of conducting the business of the board. Each of the directors not employed by the Federal Government shall receive compensation at the rate of $75 for each meeting of the board he attends. Members shall be residents of the area served by the corporation.

(b) The board of directors is empowered to adopt and amend bylaws governing the operation of the corporation. Such bylaws shall not be inconsistent with the provisions of this Act or of the articles of incorporation.

(c) The articles of incorporation of a corporation shall provide for cumulative voting for all stockholders and shall provide that, upon conversion of one-fourth of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect four directors and the preferred stockholders shall be entitled to elect three directors; upon the conversion of one-half of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect five directors and the preferred stockholders shall be entitled to elect two directors; upon the conversion of three-fourths of the outstanding shares of preferred stock, the common stockholders shall be entitled to elect six directors and the preferred stockholders shall be entitled to elect one director; and upon conversion of all outstanding shares of perferred stock, the common stockholders shall be entitled to elect seven directors. Any change of directors resulting from such stock conversion shall take effect at the next annual meeting of a corporation following such stock conversion.

FINANCING OF CORPORATIONS

SEC. 304 (a) A corporation is authorized to issue and have outstanding, in such amounts as it shall determine, two issues of capital stock, a common and a preferred, each of which shall carry voting rights and be eligible for dividends. Common stock may be initially issued only to a State or local political subdivision, to for-profit and nonprofit entities providing health services and operating health facilities, and to physicians located within the area. Common stock shall

be initially issued either at a price set by the board of a corporation or in consideration for the transfer of health facilities and related properties to a corporation. Methods of property evaluation shall be established by the Secretary and he shall be the final arbiter of disputes relating to the value of property to be transferred to a corporation. Preferred stock may be issued to and held only by any person other than those initially eligible to receive common stock. The articles of incorporation of the corporation shall provide for the following respective rights of each issue of stock:

(A) COMMON STOCK.—Common stock shall have a par value of $10 per share and shall be designated fully paid and nonassessable. No dividends shall be paid on the common stock whenever dividends on the preferred stock are in arrears.

(B)(i) PREFERRED STOCK.—Preferred stock shall have a par value of $50 per share and shall be designated fully paid and nonassessable. Dividends shall be fixed at a rate approved by the board, and shall be cumulative so that, if for any dividend period dividends at the rate fixed in the articles of incorporation shall not have been declared and paid or set apart for payment on the preferred shares, the deficiency shall be declared and paid or set apart for payment prior to the making of any dividend or other distribution on the common shares.

(ii) Preferred stock shall be entitled to a liquidation preference over common stock, which shall entitle preferred stockholders to a liquidating payment not less than par value plus all accrued unpaid dividends prior to any payment on liquidation to common stockholders.

(iii) Preferred stock shall be convertible into shares of common stock at such time and upon such terms as the articles of incorporation shall provide.

(b) The articles of incorporation shall provide that no shares of any issue of stock may be redeemed or repurchased for five years, following the date of incorporation.

(c) A corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine.

(d) The requirement of section 45(b) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-920(b)) as to the percentage of stock which a stockholder must hold in order to have the rights of inspection and copying set forth in that subsection shall not be applicable in the case of holders of the stock of the corporation, and they may exercise such rights without regard to the percentage of stock they hold.

GENERAL POWERS OF CORPORATIONS

SEC. 305. A corporation is authorized to provide comprehensive health care services and minimum health benefits through prospective contracts, arrangements for prepaid group practice, or through other arrangements which may be found efficient and effective; to contract with States and the United States for the provision of health services authorized by the Social Security Act of 1935, as amended (49 Stat. 620; 42 U.S.C. 301 et seq.): to establish ambulatory health facilities within the neighborhoods of the populations served; to provide through scholarship grants, contracts, loans, the creation or operation of accredited schools, and through other means deemed appropriate, for the education of physicians, nurses, and other medical personnel required for the delivery of health care services within an area; to issue degrees to qualified persons as medical doctors, nurses, and other medical personnel as may be appropriate and in conformance with the standards of accredited institutions of learning and the requirements of the Secretary; to own, lease, operate, rehabilitate, and construct medical education facilities; to contract for the education of health personnel, the provision of home health care services and long-term health care services, and the provisions of supporting, and other services which a corporation deems appropriate; and to undertake research and evaluation relating to the effective delivery of health care services. To carry out its functions and purposes, a corporation shall have the usual powers conferred upon a stock corporation by the District of Columbia Business Corporation Act, including the power to acquire, own, use, or convey real property, and to acquire property by condemnation where the property is not already devoted to a public or charitable use.

STANDARDS OF HEALTH CARE SERVICES, MEDICAL EDUCATION, AND OPERATION

SEC. 306. (a) Corporations, medical personnel in the employment of corporations, persons contracting with corporations, and agents of the corporations shall meet the standards of medical quality, professional qualification and accountability as prescribed in this Act and as further defined by the regulations of the Secretary.

(1) No person shall be denied health care services by reason of his race, creed, color, religion, sex, or economic status.

(2) A corporation shall, to the extent feasible—

(A) enter into agreements to provide comprehensive health services to all persons within its service area;

(B) provide health maintenance, primary, speciality, restorative, and health related custodial care;

(C) maintain community hospitals of outstanding quality, able to accept patients on a referral basis from smaller communities in the surrounding area;

(D) conduct educational programs under the supervision of the faculty of a university health science center with which the area corporation may be affiliated;

(E) have educational programs which include (i) residency programs, (ii) clinical instruction for medical doctorate candidates who would come from a university health science center on a rotating basis, (iii) clinical experience for students in allied health programs, (iv) continuing education programs for health manpower in the area, conducted in cooperation with local professional associations;

(F) provide guidance to colleges and community colleges in the area in the development of training programs for allied health professions;

(G) cooperate with area hospitals and community agencies in the planning and development of more effective health care delivery systems; and

(H) conduct limited research programs concerned primarily with the evaluation of health care delivery systems.

(3) A corporation shall furnish services in such manner as to provide continuity of care and (when services are furnished by different providers) ready referral of patients to such services and at such times as may be medically appropriate, and to the maximum extent feasible makes all services readily accessible to persons who live in the specified service area.

(4) A corporation shall provide for periodic consultation with representatives of the persons it serves regarding the policies and operation of the organization.

(5) A corporation shall encourage health education of persons it serves and the development and use of preventive health services, and provide that a committee or committees of physicians associated with the organization promulgate medical standards, oversee the professional aspects of the delivery of care, perform the functions of a pharmacy and drug therapeutics committee, and monitor and review the utilization and quality of all health services (including drugs).

(6) A corporation, to the extent practicable and consistent with good medical practice, shall employ allied health personnel and subprofessional and lay persons in the furnishing of services.

(7) A corporation shall undertake, to the extent required by regulations, to arrange for reciprocal out-of-area services by other comprehensive health service corporations, or to pay for health services furnished to its enrollees by other providers of health services in emergencies, within or outside the specified service area of a corporation.

(8) (A) A physician, optometrist, or podiatrist legally authorized to practice his profession in a State is a qualified provider of services for a corporation or as an employee of a corporation; subject, however, to the provisions of paragraphs (C) and (D). A practitioner first so authorized by a State is a qualified provider if, in addition, he meets national standards established by the Secretary (taking into consideration the criteria applied by any recognized national testing organization) for the practitioner's profession. A practitioner who is a qualified provider in one State, if he meets the national standards, is also in any other corporation a qualified provider of services which (1) are services to persons entitled thereto under this Act, and (2) are of a kind which such other State authorizes to be furnished by practitioners of his profession.

(B) For the purposes of this title—a doctor of osteopathy legally authorized to practice medicine and surgery in a State is a physician.

(C) The Secretary shall establish for professional practitioners such requirements of continuing education (taking into consideration standards approved by appropriate professional organizations) as he finds reasonable and necessary to maintain and enhance the quality of professional services to eligible persons. A professional practitioner who fails to meet a requirement established under this subsection shall, if the deficiency persists after notice and a reasonable opportunity to correct it, cease to be a qualified provider.

(D) A physician qualified in accordance with subsection (a) is not qualified to perform major surgery as a covered service, or to furnish as covered services other specialized services designated in regulation, unless he holds a certificate from the appropriate national specialty board or possesses the qualifications requisite to such certification; except that a physician may be found qualified to furnish any specialized services as covered services if (1) prior to July 1, 1973, he has engaged in furnishing such services as a specialist or as a substantial part of his medical practice, (2) he meets standards established by the Secretary, and (3) where appropriate, a finding that he is so qualified is recommended by a participating hospital in which he has engaged substantially in furnishing such services.

(9) A general hospital is a qualified provider for a corporation or as a division of a corporation if it is an institution which—

(A) is primarily engaged in providing to inpatients (other than mentally ill persons) diagnostic, therapeutic, and rehabilitation services, furnished by or under the supervision of physicians, for medical diagnosis, treatment, care, and rehabilitation of injured, disabled, or sick persons;

(B) maintains adequate clinical records on all patients;

(C) has bylaws in effect with respect to its staff of physicians, and has filed with the Secretary an agreement that in granting or maintaining medical staff privileges it will not discriminate on any ground unrelated to professional qualifications;

(D) has a requirement that every patient must be under the care of a physician;

(E) provides twenty-four hour nursing service rendered or supervised by a registered professional nurse, and has a licensed practical nurse or registered professional nurse on duty at all times;

(F) has a pharmacy and drug therapeutics committee which establishes policies for the selection, acquisition, and utilization of drugs;

(G) has in effect a hospital utilization review plan;

(H) meets all applicable requirements of the law of the State in which it is situated; and

(I) meets such other requirements as the Secretary finds necessary in the interest of the quality of the care and the safety of patients in the institution.

(10) A skilled nursing home is a qualified provider to contract with a corporation if it (or a distinct part of it) is an institution which—

(A) is primarily engaged in providing to inpatients (other than mentally ill persons) skilled nursing care and related services for patients who require medical and nursing services;

(B) has written policies, which are developed (and reviewed from time to time) with the advice of a group of professional personnel, including one or more registered professional nurses, to govern the services it provides;

(C) has a physician, a registered professional nurse, or a medical staff responsible for the execution of such policies;

(D) operates under the supervision of an administrator licensed by the State in which such institution is situated;

(E) has a requirement that the health care of every patient be under the supervision of a physician, and provides for having a physician available to furnish necessary medical care in case of emergency;

(F) maintains adequate clinical records on all patients;

(G) provides twenty-four-hour nursing service sufficient to meet nursing needs in accordance with the policies developed as provided in subsection (b), and has at least one registered professional nurse employed full time;

(H) provides appropriate methods and procedures for the dispensing and administering of drugs;

(I) has in effect a utilization review plan;

(J) meets all applicable requirements of the law of the State in which it is situated, and (unless the Secretary finds that such law provides equivalent protection) meets the provisions of the Life Safety Code of the National Fire Protection Association applicable to nursing homes; and

(K) meets such other requirements, including requirements relating to the physical facilities, as the Secretary may find necessary in the interest of the quality of care and the safety of patients in the institution.

(11) A home health service agency is a qualified provider for a corporation or as a division of a corporation if it—

(A) is primarily engaged in furnishing, on an intermittent and visiting basis in patients' homes, skilled nursing and other therapeutic services to patients (other than mentally ill persons) who are under the care of physicians;

(B) has policies developed (and reviewed from time to time) by a group of professional personnel associated with the agency or organization, including one or more physicians and one or more registered professional nurses, to govern the services which it furnishes, and provides for supervision of such services by a physician or registered professional nurse;

(C) maintains adequate clinical records on all patients;

(D) meets all applicable requirements of the law of the State in which it furnishes services; and

(E) meets such other requirements as the Secretary may find necessary in the interest of the quality of care and the safety of patients of the agency or corporation.

(12) (A) Physicians, (optometrists, podiatrists, professional nurses, and practitioners and other health professions or occupations who meet national standards established by the Secretary in consultation with recognized medical associations, are authorized to practice in the service of, or by contract with, a corporation notwithstanding any restriction of State laws.

(B) A corporation and its subsidiaries and agents, whether hospitals or other types of health delivery facilities, which meet national standards established by the Secretary in consultation with recognized professional organizations, are authorized to operate notwithstanding any restriction of State laws.

(13) The Secretary, in consultation with appropriate professional, medical, and accreditation associations, shall issue regulations for the development of accelerated medical education programs by corporations, for the integration of preprofessional and professional curriculums provided by a corporation, for the awarding of a master's degree at the end of basic training in health-related sciences essential to the operation of a corporation, for the provision of clinical training and for the requirements of residency training in a corporation.

(14) Persons receiving medical education training through arrangements with a corporation shall enter into a contract to remain in the employment of the corporation for a specified period of not less than three years and not more than ten years. Persons not remaining in the service of a corporation for an agreed upon period of time shall treat the cost of their medical education through the corporation as a loan repayable on terms agreed upon with the corporation before or during the period of education. Corporations may enter into agreements for the transfer of medical personnel among themselves without penalty as to repayment agreements for training.

(15) Corporations shall be subject to the laws and regulations of the Securities and Exchange Commission unless exempted by the Secretary.

(16) Each corporation, upon the approval of its board of directors and after comment by the planning agency of the State, shall submit for approval at the end of its fiscal year to the Regional Planning Agency for subsequent ratification by the Secretary a five-year program financial plan outlining its corporate goals, its plans for financing, evaluating the relative effectiveness and efficiency of its services, describing the benefits it expects to provide at different levels of cost, and containing such other data as may be requested by the Regional Planning Agency.

TITLE IV—FEDERAL FINANCIAL ASSISTANCE

NEW FEDERAL GRANTS

SEC. 401. There is authorized to be appropriated to the Secretary in each fiscal year through fiscal year 1990, to remain available until expended, such sums as may be necessary for payment to corporations for the purpose of assisting in—

(a) the initial organization and operation of corporations;

(b) the financing of health care services to low-income individuals on a per capita basis by each corporation to the extent such individuals are unable to pay for their services or not otherwise entitled to health care benefits;

(c) the financing of health care benefits through corporations established by this Act or through similar comprehensive health organizations for employees of small businesses and charitable organizations, not exempted by section 206, to the extent a determination is made by the Secretary that the cost of providing minimum health benefits may cause undue financial hardship to a business or charitable organization.

(d) for the subsidization of medical education to the extent a corporation is not able to finance over a period of time the actual cost of the development of the health care personnel required for its operation;

(e) for the construction and staffing of hospitals, ambulatory and diagnostic centers, and medical education facilities for corporations serving areas lacking such facilities required for the purposes of the corporation;

(f) for research and development of new and improved methods of health care delivery of national significance.

GUARANTY OF LOANS

SEC. 402. The Secretary is authorized, on such terms and conditions as he may prescribe, to guarantee any lender against the loss of principal or interest on securities, obligations, or loans issued for the purposes of a corporation. The maturity date of such securities, obligations or loans, including all extensions and renewals thereof, shall not be later than thirty years from their date of issuance. The Secretary shall prescribe and collect from the lending institution a reasonable annual guaranty fee. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

LOANS

SEC. 403. The Secretary is authorized, on such terms and conditions as he may prescribe, to make loans to corporations for purposes consistent with the intent of this Act. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section. Any sums appropriated shall be available until expended.

PREEMPTION OF FEDERAL GRANTS, LOANS, AND GUARANTEES

SEC. 404. A corporation, not providing profits to its shareholders, shall be eligible for Federal assistance as a nonprofit corporation, or to the extent that its division, such as its hospital or medical, may have been eligible for grants, loans, interest subsidies, or guarantees under the provision of the Public Health Service Act, as amended (58 Stat. 682; 42 U.S.C. 201 et seq.). Corporations shall be given priority consideration by the Secretary and State agencies in the provision of Federal assistance. No public or private entity which may be eligible for the same assistance as a corporation may receive such assistance if such entity is located within the service area of a corporation and if the corporation has made an application for similar assistance.

ACCOUNTABILITY

SEC. 405. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by striking out "and" immediately preceding "(6)" and by inserting immediately before the period at the end thereof the following: "and (7) the Area Health Services and Health Education Corporations".

RECORDS AND AUDIT OF CORPORATIONS

SEC. 406. (a) (1) The accounts of a corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audit shall be conducted at the place or places where the accounts of a corporation are normally kept. All books, accounts, financial records, reports, files, and other papers, things, or property belonging to or in use by a corporation and necessary to facilitate the audit shall be made available to the person conducting the audit; and full facilities for verifying transactions with the balances or securities held

by depositories, fiscal agents, and custodians shall be afforded to such person.

(2) The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly a corporation's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of a corporation's income and expenses during the year, and a statement of the sources and application of funds, together with the independent auditor's opinion of those statements.

(b)(1) The financial transactions of a corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the Comptroller General of the United States 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. Any such audit shall be conducted at the place or places where accounts of the corporation are normally kept. The representative of the Comptroller General shall have access to all books, accounts, records, reports, files and other papers, things, or property belonging to or in use by a corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of a corporation shall remain in possession and custody of the corporation.

(2) A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operations and condition of the corporations, together with such recommendations with respect thereto as he may deem advisable. 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 Secretary and to the corporation at the time submitted to the Congress.

TITLE V—REGIONAL PLANNING COUNCILS

CREATION OF REGIONAL PLANNING COUNCILS

SEC. 501. (a) The Secretary shall establish planning councils in each major geographic region of the country which may be identifiable by the proximity of major metropolitan areas within it to each other, by the greater frequency of commerce and transportation among its population than with the population of other areas, and by the existence of a regional medical program established under title IX of the Public Health Service Act, as amended (58 Stat. 682; 42 U.S.C. 299–299(j)), within its boundaries.

(b) The purpose of a regional planning council shall be to develop plans for the provision of comprehensive health services to all persons within the region and for the development and allocation of health manpower and facilities adequate to provide comprehensive health services to all persons within the region. These plans shall be developed in cooperation with State and local planning agencies authorized under titles III and VI of the Public Health Service Act, as amended, area health service and health education corporations, medical schools and institutions of health education, and professional medical associations. A regional planning agency shall have authority to approve or reject by a majority vote of its members State comprehensive and State health facilities construction plans required under the Public Health Service Act, as amended, and corporations' program financial budgets as required by this Act. State agencies or corporations may appeal decisions of a regional planning council to the Secretary whose decisions will be final. No Federal funds may be expended for projects or services not in conformance with an approved plan by the regional council. Each regional planning council shall submit to the Secretary on an annual basis a comprehensive health resources allocation plan for the region. Each annual plan shall describe projects and services eligible for Federal assistance.

APPOINTMENT OF REGIONAL PLANNING COUNCIL

SEC. 502. The Secretary shall appoint not more than nineteen and not less than eleven members of the regional planning council. He shall appoint one member who shall be his representative, serve as chairman of the council, and serve as the executive director of the administrative staff of the council and whose term shall be at the discretion of the Secretary. He shall appoint one member on the advice of each Governor within the region and whose term shall be coterminous with the terms of each Governor; and he shall appoint at least two representatives of the corporations within the region and at least two representatives of professional medical personnel within the region, whose terms shall be five years. All other members appointed by the Secretary shall have terms of five years unless they are filling vacancies. A majority of the council shall constitute a quorum for a meeting. The Secretary is authorized to provide staff for the council which he deems appropriate. To the extent possible, the Secretary shall coordinate the regional planning council staff's operations and location with other federally created regional organizations. Members of a council shall be considered full-time employees of the council and shall receive salaries at the grade level of GS–18.

SEC. 503. There is authorized to be appropriated to the Secretary such funds as may be necessary to carry out the purposes of this title, to remain available until expended.

TITLE VI—MISCELLANEOUS PROVISIONS

NONCONFORMING LAWS

SEC. 601. The provisions of this Act supersede any other provisions of law in conflict with the purposes of this Act.

SEPARABILITY

SEC. 602. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

ADDITIONAL PERSONNEL

SEC. 603. Nothwithstanding any other provision of law, the Secretary is authorized to provide Federal medical personnel to corporations for initial staff support and to provide the additional personnel he deems necessary for the administration of the provisions of this Act.

RULEMAKING AUTHORITY

SEC. 604. The Secretary is authorized to make rules and regulations under the procedures established in section 4 of the Administrative Procedure Act, as amended (60 Stat. 237; 5 U.S.C. 553), which are necessary to fulfill the purposes of this Act.

EFFECTIVE DATE

SEC. 605. Unless otherwise provided in this Act, the provisions of this Act shall become effective upon enactment.

ADDITIONAL COSPONSOR OF A BILL

S. 4564

At the request of the Senator from Montana (Mr. MANSFIELD), his name was added as a cosponsor of S. 4564, to establish a national cancer authority in order to conquer cancer at the earliest possible date.

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, December 18, 1970, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1785. An act for the relief of Irene Sadowska Sullivan;

S. 2162. An act 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;

S. 2336. An act relating to the parishes and congregation of the Protestant Episcopal Church in the District of Columbia;

S. 3318. An act to amend the Library Services and Construction Act, and for other purposes;

S.J. Res. 74. Joint resolution to provide for the designation of the first full calendar week in May 1971 as "National Employ the Older Worker Week";

S.J. Res. 172. Joint resolution to authorize the President to issue a proclamation designating the first full calendar week in May 1971 as "Clean Waters for America Week";

S.J. Res. 187. Joint resolution to authorize the President to designate the third Sunday in June 1971 as "Father's Day";

S.J. Res. 226. Joint resolution to authorize the President to proclaim the period from May 9, 1971, Mother's Day, through June 20, 1971, Father's Day, as the "National Multiple Sclerosis Society Annual Hope Chest Appeal Weeks"; and

S.J. Res. 236. Joint resolution authorizing the preparation and printing of a revised edition of the Constitution of the United States of America—Analysis and interpretation of decennial revised editions thereof, and of biennial cumulative supplements to such revised editions.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 1159

Mr. METCALF. Mr. President, I submit today an amendment to the social security bill, H.R. 17550, to redefine disability by adding the same words as appear in the administration's family assistance bill, "available to him within a reasonable distance from his residence." The amendment would return the definition in the Social Security Act to its meaning prior to the 1967 amendments, would conform with court decisions, with basic workmen's compensation law and veterans compensation cases.

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

AMENDMENT NO. 1160

AMENDMENT TO PROVIDE IMMEDIATE RELIEF TO STATE AND LOCAL GOVERNMENTS

Mr. CASE. Mr. President, I am submitting today an amendment to the social security bill (H.R. 17550) to increase the Federal share of the cost of medicaid and current public assistance programs from the present minimum of 50 percent to a new minimum of 72 percent.

The effect of this amendment would be to provide $2.3 billion in urgently needed Federal aid to more than half

the Nation's 50 States. These include the States bearing the heaviest burden of welfare costs.

For New Jersey, the amendment would mean an additional $101 million in Federal aid next year.

The need for immediate Federal help is urgent. Many States are facing severe financial crises and some cities are virtually on the brink of bankruptcy. Without help of this sort, they simply will not be able to meet the costs, not only of welfare, but the whole range of basic community needs—education, health, sewerage, water, garbage collection, police and fire protection—which traditionally have been handled locally and which should continue to be.

Assumption by the Federal Government of a larger share of welfare costs is essential if local governments are to meet more effectively other pressing local problems.

My amendment would provide immediate help to State and local governments in the area it is most needed. The most rapidly growing expenditure in State and local budgets is the cost of welfare. For example, New Jersey Governor William T. Cahill recently stated:

> In order to continue our state public welfare assistance programs in fiscal 1972 on the same basis on which it is being operated during the current fiscal year, we must expect up to a $100 million increase in appropriations over and above the amount appropriated for fiscal 1971 . . . This would mean a 53 percent increase over the amount appropriated for this year and this would be accompanied by a 38 percent rise during fiscal 1972 in the average number of persons receiving welfare every month.

Similar skyrocketing costs are being projected in Indiana, Michigan, Washington and many other States across the country.

Despite the fact that States have little control over the growth of welfare caseloads, the present cost-sharing formula forces to spend a much larger proportion of their resources on welfare than the Federal Government spends. Last year 16 percent of State expenditures and 7.8 percent of local expenditures went for welfare programs, compared to 5.7 percent spent by the Federal Government.

My amendment, moreover, would correct a long-standing inequity in the Federal cost-sharing formula for welfare programs. That formula has never been fair or just to many of our States, but the rising cost of relief has made the inequity intolerable. Under present law, the States with the heaviest welfare caseloads receive the Federal help. My amendment would not completely equalize Federal cost-sharing because some States would still get Federal reimbursement up to 83 percent. But it would go a long way toward correcting an injustice that has put our States in a financial crisis.

Finally, my amendment would provide emergency help until the family assistance program, if adopted by the Congress, goes into effect. My proposal is in no way antagonistic to or inconsistent with welfare reform or revenue sharing, nor is it intended as an alternative to those proposals. It is offered in recognition of the fact that neither FAP nor revenue sharing will provide funds soon enough to help States and cities next year.

I believe my amendment provides a realistic approach to a very urgent national problem. While the total cost of $2.3 billion is high, it is less than one-fourth of the $10 billion sought by the Republican Governors Conference and a number of the Nation's mayors.

No solution to the problem of helping our States and cities meet their obligations will be painless. There is no Aladdin's lamp that will make raising revenue easy, whether it is done at the Federal, State, or local levels.

The needs are here. They have to be met. My proposal involves no additional costs to the Nation's taxpayers. It simply transfers to the Federal Government costs that now have to be met by sorely pressed State and local governments.

Unless the Federal Government assumes a larger share of responsibility for what is a national problem, we may well be faced in the not distant future with the question of whether State and local governments will be able to continue as viable elements of our federal system.

Mr. President, I ask unanimous consent that a table be printed in the RECORD.

The PRESIDING OFFICER (Mr. EAGLETON). The amendment will be received and printed, and will lie on the table; and, without objection, the table will be printed in the RECORD.

The table, presented by Mr. CASE, is as follows:

INCREASE IN FEDERAL FUNDS WITH 72 PERCENT MINIMUM FEDERAL MEDICAL ASSISTANCE PERCENTAGE

States shown receiving no increase under this formula already receive reimbursement of 72% or more of their welfare costs from the Federal Government. The Federal share currently ranges from 50% to 83%.

	Increase
Alabama	----------
Alaska	$1,859,000
Arizona	7,489,000
Arkansas	----------
California	636,051,000
Colorado	26,794,000
Connecticut	39,910,000
Delaware	2,707,000
District of Columbia	21,017,000
Florida	----------
Georgia	----------
Hawaii	9,874,000
Idaho	836,000
Illinois	153,103,000
Indiana	20,533,000
Iowa	14,786,000
Kansas	14,686,000
Kentucky	----------
Louisiana	----------
Maine	2,311,000
Maryland	47,234,000
Massachusetts	142,780,000
Michigan	125,290,000
Minnesota	46,089,000
Mississippi	----------
Missouri	12,755,000
Montana	1,852,000
Nebraska	7,962,000
Nevada	2,238,000
New Hampshire	3,343,000
New Jersey	101,129,000
New Mexico	----------
New York	535,052,000
North Carolina	----------
North Dakota	413,000
Ohio	62,085,000
Oklahoma	6,422,000
Oregon	$15,162,000
Pennsylvania	126,414,000
Rhode Island	14,804,000
South Carolina	----------
South Dakota	582,000
Tennessee	----------
Texas	----------
Utah	1,713,000
Vermont	2,511,000
Virginia	12,368,000
Washington	52,444,000
West Virginia	----------
Wisconsin	37,950,000
Wyoming	1,245,000
Totals	2,311,793,000

AMENDMENTS NOS. 1161 AND 1162

Mr. HARTKE submitted two amendments, intended to be proposed by him, to the bill (H.R. 17550) to amend the Social Security Act to provide increases in benefits, to improve computation methods, and to raise the earnings base under the old-age, survivors, and disability insurance system, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis upon improvements in the operating effectiveness of such programs, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 1163

Mr. CURTIS submitted an amendment, intended to be proposed by him, to House bill 17550, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 1164

Mr. BROOKE. Mr. President, on behalf of myself and Senators CASE, COTTON, GRIFFIN, HART, INOUYE, JAVITS, KENNEDY, MCGOVERN, MCINTYRE, MONDALE, MUSKIE, NELSON, PELL, PROXMIRE, and PROUTY, I submit an amendment to H.R. 17750 and ask that it be printed. This amendment which I plan to offer would strike section 304A of this bill. As presently written, section 304A would prohibit the use of tariffs by the President as a means of relief when it is found that the import of a particular commodity threatens to impair our national security. In effect the section would leave the President only quotas as a means of relief. This section would have a most immediate and devastating effect upon the importation of crude oil and petroleum products.

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

AMENDMENT NO. 1165

NATIONAL COUNCIL ON HEALTH POLICY

Mr. KENNEDY. Mr. President, I send to the desk an amendment to H.R. 17550, and I ask that the amendment may be ordered to lie on the table and be printed.

The purpose of the amendment is to create a National Council on Health Policy. The Council would be modeled along the lines of the Council of Economic Advisers and the recently created Council on Environmental Quality. It would be located in the Executive Office of the President, and would consist of three full-time members appointed by the President with the advice and consent of the Senate.

The principal function of the Council would be to establish a national health policy for the United States, and to make recommendations to the President and Congress on methods to achieve the goals of the policy. The Council would provide new executive leadership at the national level in health affairs. As a high-level coordinator and policymaker in the health field, the Council would study and evaluate health activities throughout the Federal, State, local, and private sectors, and would suggest new programs and new approaches in all areas of health policy, such as research, facilities, services, manpower, and the organization, delivery, and financing of health care.

The amendment would authorize the appropriation of $300,000 for the operation of the Council for fiscal year 1971, $500,000 for fiscal year 1972, and $1 million for each fiscal year thereafter.

I believe that the creation of a National Council on Health Policy is overdue, especially in light of the tremendous growth of Federal health programs in recent years, and the lack of an adequate existing mechanism for setting national health policies and long-range goals.

Numerous bills have been introduced in past Congresses to create such a council. Although temporary, short-term groups, including Presidential commissions, ad hoc committees, and interagency committees have been created in the past to deal with specific problems in the health field, none of these groups has had the scope or the authority of the ongoing Council recommended in the amendment I am proposing.

In the current Congress, the extensive hearings and report of the Senate Subcommittee on Executive Reorganization and Government Research, chaired by Senator ABRAHAM RIBICOFF, have documented the confusing maze of existing Federal health programs and the absence of any effective national health policy. For example, the Nation's highest health officer—the Assistant Secretary of Health, Education, and Welfare for Health Affairs—controls only 22 percent of HEW's total health expenditures of $14 billion for fiscal year 1970, and only 16 percent of the total health expenditures of $19 billion for all the 24 Federal departments and agencies engaged in health programs. As the result of its study, one of the subcommittee's principal recommendations was for the creation of a Council of Health Advisers, thereby giving new impetus to the movement for the creation of such a council.

The National Council on Health Policy would fulfill a function in the area of health affairs similar to the function now fulfilled by the Council of Economic Advisers in the area of economic affairs. Since its creation shortly after the Second World War, the Council of Economic Advisers has played a major coordinating and policymaking role in economic matters; it has established itself as a prestigious entity in the White House Office, distinct from the Departments of Treasury, Commerce, and Labor, and the Federal Reserve Board, each of which also has an important role in economic affairs.

The Health Council proposed by the amendment would perform a corresponding function in health policy, and would establish itself as an entity distinct from the existing Federal departments and agencies with operating responsibilities in health affairs. Ideally, the annual report of the Health Council would become the same sort of major health event in the Nation that the annual report of the Council of Economic Advisers represents for the economy.

The role of the National Council on Health Policy would be one of making reviews, evaluations, and recommendations. Those Federal departments and agencies—for example, HEW, the Veterans' Administration, and the Department of Defense—with existing health programs would retain full control and direction of their programs, as well as continuing responsibility toward their particular beneficiaries as set forth in their existing statutory authority.

The deepening health crisis in the Nation is in large part the result of the failure to create a coherent and coordinated national health policy, capable of defining the health needs of contemporary America, assessing our health resources, and proposing adequate health programs. I believe that the establishment of a National Health Council, capable of setting and coordinating national health policy, is a necessary precondition if the Nation is to bring order out of the current disarray of Federal health programs.

Mr. President, I hope that this amendment will be approved by the Senate, and I ask unanimous consent that it may be printed in the RECORD at this point.

The PRESIDING OFFICER (Mr. COOK). The amendment will be received and printed, and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 1165) is as follows:

AMENDMENT NO. 1165

On page 540, insert the following new section after line 7:

"NATIONAL COUNCIL ON HEALTH POLICY

"SEC. 614. (a) There is hereby established, in the Executive Office of the President, a National Council on Health Policy (hereinafter referred to in this section as the "Council"), which shall consist of three members who shall be of distinguished competence in the field of health or any field related thereto, and who are not otherwise in the employ of the United States. Members of the Council shall be appointed by the President, to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman.

"(b) Each member of the Council shall hold office for a term of three years, except that 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, and except that the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, one at the end of the first year, one at the end of the second year, and one at the end of the third year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(c) Members of the Council shall serve full time, and the Chairman of the Council shall be compensated at the rate provided for level III of the Executive Schedule (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315).

"(d) It shall be the duty and function of the Council to conduct studies, research, and investigations for the purpose of setting goals for a national health policy for the United States and of making recommendations to the President and to the Congress of various means whereby such goals may be attained.

"(e) In carrying out its duty and function, the Council shall—

(1) conduct a continuous evaluation of policies and programs related to the Nation's health (including policies and programs related to disaster planning) and make recommendations for the revision, expansion, and improvement of such policies and programs;

(2) initiate, study, and develop measures designed to assure the provision of adequate manpower, services and facilities for the Nation's health, including the mobilization, allocation, and utilization of such manpower, services, and facilities;

(3) evaluate studies and surveys made by or concerned with departments and agencies of the Federal Government in relation to the Nation's health needs and resources;

(4) advise and consult with departments and agencies of the Federal Government on policies and programs concerned with health services, manpower, and facilities; and

(5) upon the request of the President with respect to any matter concerning the Nation's health, submit to the President a report containing such information, data, or recommendations on such matters as the President may indicate in such request.

"(f) The Council shall submit annually to the President and the Congress a report of its activities together with a statement of the national health policy and goals established by it and its recommendations of measures designed for the attainment of such goals.

"(g) The various departments and agencies of the Federal Government shall cooperate with the Council in carrying out its responsibilities.

"(h) The Council shall have authority to employ such professional, technical, and clerical staff as may be required to carry out its duty and function. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary to carry out its duty and function, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

"(i) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated $300,000 for the fiscal year ending June 30, 1971, $700,000 for the fiscal year ending June 30, 1972, and $1,000,000 for each fiscal year after the fiscal year which ends June 30, 1972.

AMENDMENT NO. 1166

BENEFITS FOR UNADOPTED GRANDCHILDREN

Mr. PERCY. Mr. President, under the present social security law, some children who are dependent on their grandparents cannot obtain benefits based on their grandparents' earnings. A grandchild must be adopted by his grandparents before he qualified for a child's social security benefits. This is most unfortunate, as there are cases in which the grandparents, for valid reasons, are either unable to or do not wish to adopt the child, yet still maintain a quasi-parental relationship.

The purpose of social security is to provide the family with a continuing source of income when the family income

stops because of the death, retirement, or disability of a worker. Following this, social security benefits are paid to children whose parents have died, retired, or become disabled on the theory that children are generally dependent on their parents and suffer a loss of support when the parents' income stops. However, if that "parent" is a grandparent the child suffers in being denied a social security benefit. Benefits are extended to grandchildren only when they are legally adopted.

This distinction which prohibits the unadopted child living with and supported by his grandparents from receiving the same benefits he would receive if he were adopted is grossly unfair. A child dependent on his grandparents is as deserving of social security benefits as is a child who is dependent on his parents—perhaps even more deserving as grandparents very possibly would have less income. The payment of these benefits should be based on the realities of the situation.

I, therefore, urge favorable action to permit the payment of social security benefits to the dependent grandchildren of disabled, retired, or deceased workers when it can be shown that the child is actually dependent for support upon the grandparents.

My amendment, that I am herewith sending to the desk, redefines the term "child" so that benefits would be provided for a grandchild if, at the time the grandparents died or became entitled to benefits, he had been living with the grandparents at least 1 full year—except in the case of death or disability of the grandparent, within the same year as the loss of support from the parents. In addition, it would have to be shown that the grandparents actually furnished at least one-half of the child's support during this time.

Adoption of this measure would correct an anomaly in the social security program. It would make actual dependency the criterion for payments to a grandchild.

Although this is not a major change when measured in terms of the number of people affected, it is nonetheless a major change when measured by the effect it will have on the incomes of those individuals who will qualify for benefits. Moreover, the social security actuaries inform me that, because only a relatively few people could be expected to qualify for benefits, adoption of the proposal would have no significant effect on the total cost of the social security program. The "level-cost" would be 0.01 percent of the taxable payroll. Passage of the bill would eliminate the need for taking action on about 300 private bills annually.

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

AMENDMENT NO. 1167

SUBMISSION OF AMENDMENT TO AMENDMENT NO. 1097

Mr. BAYH. Mr. President, today I am substituting an amendment to the Ribicoff-Bennett proposed Family Assistance Act.

The passage of my amendment would assure us that a program of comprehensive welfare reform will include a provision calling for a test of income adequacy. The central objective of this amendment will be to allow an additional evaluation of income support as an anti-poverty strategy.

The Ribicoff-Bennett proposal is aimed at revising the Nixon administration's October revision of the family assistance plan. While it does deal with a number of the objections raised to the FAP measure it does not deal with the central concern many of us have that the minimum income floor of $1,600 for a family of four is insufficient.

Mr. President, my amendment calls for setting up a test program which will use as its basis a minimum income guarantee of $5,500 for a family of four. In the discussion of the family assistance plan to date, there has yet to be proposed a figure which would define adequacy. As a result of this test proposal, a number of questions will be clarified.

First. What is the increase in well-being of once-poor families whose incomes are raised above the defined poverty level by a more adequate income program?

Second. How does their actual well-being, as measured by their actual purchases of goods and services in the market, compare with the well-being of hypothetical families in corresponding budget studies and with the well-being of families at similar levels of income who achieved those levels in the absence of the adequate income program?

Third. Is poverty simply a matter of insufficient income, or is it more a matter of culture and life-style as some have argued?

Fourth. Do people rapidly take on the economic and social characteristics of the income strata into which they move?

Fifth. What are the gains to society from substantial investment in its low income citizens; for example, to what extent do substantial inputs of money help people live better now and help them to achieve a future life of self-support?

In short, the main question this body should ask itself is: To what extent can we rely on a money strategy as the principal component of our anti-poverty efforts? We will never know the answer to this question, obviously, until we have tested a figure that can be determined to be adequate. The Bureau of Labor Statistics has estimated that a family of four with an "employed male head" needs $6,567 a year on a lower standard budget in order to lead a decent life. The Bureau of Labor Statistics has also figured that a family with an "unemployed male head" in 1967 needed between $4,381 and $4,889 a year for a decent life standard. It is my opinion that an adequate income figure on which to test income adequacy for a poor family should be within the range of these BLS figures. It is for these reasons that I have selected the $5,500 figure for an adequate test. With the proper work incentives provided, I feel certain that it can be shown that families living under this standard will be able to free themselves from the bonds of poverty and enter into the mainstream of American society. My amendment will therefore allow the Secretary of Health, Education, and Welfare to develop a test program to determine the true impact of an adequate income plan.

Mr. President, on August 8, 1969, the President of the United States proposed a bill designed to overhaul and reform our national system of welfare. Since its introduction, this proposal has undergone numerous changes and revisions, has been acclaimed by some and termed grossly inadequate by others. Some in the social welfare professions view it as a first step in increasing the effectiveness of the welfare system. However, many welfare recipients, along with such groups as the National Welfare Rights Organization, cite ways in which this bill is a step backward from present law.

In my view, the proposed family assistance plan—the Nixon plan—is more than just another bill about welfare reform. It is symbolic of what those in power think of welfare as an issue. This Nixon plan appears to be aimed more at improving the bureaucracy of the system than at eliminating the problem of welfare. The basic question remains: Does the Nixon plan deal with the real problem at hand? Does it effectively meet the needs and desires of the Nation's poor.

This is not the first time that the Congress has been told that by passing a bill it could solve the welfare problem. In 1962, a law was enacted, the public welfare amendments, which provided social and rehabilitation services to the poor, and instituted new matching formulas. It increased the Federal matching share and raised reimbursements to the States. We were then told that this would mean fewer welfare recipients in the long run. Despite this legislation the welfare rolls continued to grow.

In 1967, the Congress enacted the work incentive program for adult AFDC recipients to train those on welfare and force them to work in the belief that this would reduce the number of needy Americans. But the welfare rolls continued to grow.

These earlier measures had attractive features—just as does the new Nixon plan. For example, extending assistance to working people presently ineligible is only a first step. The new measure will raise the benefits for the poor in six Southern States: Alabama, Arkansas, Louisiana, Mississippi, South Carolina, and Tennessee, where a family of four currently receives less than $133 a month.

On the other hand, there are many repressive features in the bill which must be removed before it is approved. Rather than being an incentive for work, it is quite possible that the Nixon plan could serve as an incentive for family breakup. In its present form the Nixon plan would allow financial benefits to be reduced or cut off for many recipients, including those who work. For example, current standards established by the States of New York and New Jersey are above the $3,720 absolute minimum income for a family of four recommended by the U.S. Social Security Administration.

Additionally, there are 35 States in which total payments to a family of four exceeds $2,000 and 22 States in which total payments to a family of four exceeds $2,500. Under the present Nixon plan of a $1,600 minimum income for a family of four, 1,450,000 welfare recipients in New York and New Jersey face a reduction in income. This will also be the case in the other States which currently provide AFDC payments above the $1,600 level.

However, before we consider this or any legislation we should be clear as to the nature of the problem with which we are dealing. Perhaps one reason that past attempts at solving the welfare problem have failed is because we have misunderstood the nature of the problem.

We assume that growing welfare rolls are a sign of national sickness. We assume the problem rests solely with those people who receive assistance. Hence, we have enacted legislation to deal with those people. And we have provided services for them while at the same time looking down upon them as second-rate citizens.

We have rarely ever considered that the problem may not be solely in the people but rather in our attitudes toward the poor. Experience has shown us that our changing social and economic climate encourages the poor to dream of a better way of life while at the same time depriving them of adequate income.

In order to better understand the complexity of the problem, we have to confront the issue of welfare head on. Our national program of public assistance was designed in the thirties to aid certain categories of people in situations which made employment either difficult or impossible. It was established for the aged, the blind, the disabled and primarily for mothers with dependent children. Persons in a normal working situation were ineligible. Even those who received aid were given benefits that did not provide enough money for a decent life.

Yet, many people think that welfare recipients are lazy and unmotivated. Requirements for eligibility demonstrate that people receiving welfare are on the periphery of the working population. The statistics of the Department of Health, Education, and Welfare in February 1966 pointed out that less than 50 percent of welfare recipients are able to get off the welfare rolls by working. The latest estimate is that at the end of August 1970, there were a total of 2,269,000 families in the AFDC category. That adds up to a total of 8,659,000 idividuals. Of this number, 6,349,000 are children. In addition, there are 2,054,000 individuals covered by the old age assistance category. Another 899,000 are disabled and 80,200 are blind people receiving aid. These are the people whose lives will be affected by any welfare reform bill. Many of them are anxious to join the work force.

Indeed, 14.5 percent of the heads of welfare households work but still require supplementation. A recent HEW study has shown that over a third of women receiving welfare are trained for and willing to work. Another study has shown us that 70 percent of the mothers on AFDC roles want to work. The heart of the problem is not the willingness on behalf of the poor to work, but rather the lack of job opportunities of which the poor can take advantage. I think it is time that we faced up to these facts and stopped burying our heads in the sand of social and administrative irresponsibility.

The Nixon proposal would repeat the forced work and training provisions of the 1967 amendments but would also provide for benefits to families in which the male head of the family is employed. Let it be clear that I support the concept of aiding the working poor. It is essential that welfare recipients be encouraged to work to their capacity and be provided with sufficient incentive to take maximum advantage of available services.

I would go even further than the procedure envisioned by the Nixon plan by saying that welfare recipients should be able to earn a decent salary without giving up their welfare assistance payment on what is almost a dollar for dollar basis. Continued assistance to the working poor would be a major step in providing the incentive needed for a person to free himself from the bonds of poverty. The poor want to work. It is our job to encourage that desire. For this reason I believe that one of the key provisions to any welfare reform bill must be a strong work incentive provision which realizes as its goal the need for encouraging and supporting the working poor.

It has long been established that the concept of the poor being lazy is a myth. The facts tell us just the opposite. For example, the preliminary results of the New Jersey graduated work incentive experiment shows that, "Indepth interviews with participants indicate that the low-income individual is strongly motivated toward work." When are we, the representatives of the American people, going to respond to the motivations of those citizens?

Those who are most deeply involved in the mechanism of the welfare system now say that this system has failed. One of the obvious indicators of this failure is recipient dissatisfaction. Recipients are dissatisfied because they receive such inadequate income. In most States, recipients receive only a tiny portion of what Americans need to live on. In my home State of Indiana, for example, a family of four can receive a maximum AFDC payment of $1,800 a year. With food stamps it comes to about $2,500 a year for a family of four. It should also be noted that only 40 percent of those eligible for food stamps actually receive them. Many as yet do not know that they are eligible to qualify.

In addition, AFDC payments vary from State to State. In the State of Washington, this payment reaches $3,648 a year while in Mississippi it totals only $828 a year. Although these amounts do vary widely, they have one thing in common. All are clearly insufficient. An estimate given by the Bureau of Labor Statistics shows us that a family of four with an "employed male head" needs $6,567 a year for a lower standard budget. This is the minimum standard for a decent life. For a family with an "unemployed male head" in 1967, this figure can be reduced to between $4,381 to $4,899. Too often welfare recipients are regarded as leeches of our society rather than human beings struggling to survive. Too many potential recipients have been turned away for the wrong reasons. For too long welfare recipients have been treated with disrespect. We have all heard the stories of long lines and social worker investigations. These conditions still exist and continue to shape our attitudes about the welfare system. This must not continue. It is time to put an end to a system which is underfunded and overburdened with callous insensitivity. Through the years, many dedicated workers have struggled to make our welfare system a bit more responsible to the needs of recipients. Any proposal of welfare reform must recognize their struggle and provide assurances of more sensitive and enlightened welfare administration.

The question that must now be raised is why is the public dissatisfied with the welfare system? The public knows that hunger exists in America and wonders why this system has not dealt with it. Again, the failure has been that the welfare system did not supply enough resources and the administration of the program has not been able to reach all of those who are in need. The public expects the welfare system to deal with problems that it is just not suited to handle.

Another myth which has misled the public is that welfare recipients cheat to qualify for welfare. This is not true. The percentage of those who cheat is surprisingly low. A special study of the declaration system in New York shows that less than 2 percent of those who have received welfare checks cheated. HEW estimated in 1969 that only 0.4 percent of all welfare cases were fraudulent. This percentage of fraud is quite low when compared to the rates of fraud and evasion by those who pay Federal income tax. Past estimates by the Internal Revenue Service has pointed out that nearly 28 percent of the income of small businessmen and farmers goes unreported. It was reported that receivers of interest do not report about 34 percent of their income. There is a lot about welfare that most of us simply do not know. Our image of welfare has been inaccurate and distorted. To admit this is the beginning of both wisdom and constructive reform.

Prosperity in America increases, yet the welfare rolls do not decrease. Better use of our tax money would make greater welfare expenditures possible. Welfare is no longer the hidden program it once was. The need and the poor have always been there. However, America's will and resources have never been committed to meet that need. Our welfare system has only dealt with a certain category of people. Many others are in need of assistance, such as poor families with working fathers who do not earn enough income; and also needy childless couples. Thus, our system does not provide for all the poor. Where it does provide some assistance it does not provide adequate income.

Until 2 years ago our welfare system provided no incentive to work. Every dollar earned by the recipient was deducted

from the welfare dollar. The system now provides for only a small work incentive. Our system has flagrantly denied the rights of people and denied them the respect due to all human beings. Our system has not provided the opportunities for people to find the jobs and receive the necessary services that would give them the incentive to vastly improve their economic condition. We have blocked their path. The system can and must be improved if we are truly going to attack the root causes of poverty and I offer the following suggestions.

The basic ingredient involved in improving our concept of welfare is the development of a system which provides an adequate income. One of the creative plans offered to date is the proposal of the National Welfare Rights Organization calling for an adequate income for all categories of the poor based on a figure of $2,000 for a single individual and $5,500 for a family of four. This plan would allow continuation of payments based on family size. Eligibility would continue to be based on need. Under the NWRO plan a family could earn money while continuing to receive a level of welfare benefits on a reduced scale.

There are a number of things which must be taken into consideration. It is first of all not important to talk only of expenditures. Emphasis must also be placed on increasing the amount and quality of social welfare services.

It is not only our job to find a plan which will eliminate welfare but also to determine which plan will give us more return on our tax dollar. Yet, more important than this, we must back the plan which is best suited for eliminating poverty.

The question this body should ask itself is: Are we pursuing a meaningful solution as vigorously as we are complaining about the weight of the burden?

It is quite possible the adequate income plan of the National Welfare Rights Organization will be a positive step in helping America find that solution. It is unfortunate that this organization was not invited to present their views before the Senate Finance Committee during the hearings on the proposed family assistance plan. Their expertise in this field is extensive and they represent the views of thousands of welfare recipients who will be affected by this bill. The adequate income plan is directed at assisting the too often voiceless poor. Serious evaluation should be made by the Congress concerning this plan. I recommend that we give this plan a chance to prove its value. This could be done by setting up a test program which would enable us to clearly see what the results would be. The $1,600 level for a family of four in the Nixon plan is not enough. A positive alternative, such as that offered by NWRO, could in the long run be one of the soundest investments this country has ever made.

We should continue to work toward insuring the promotion of day care centers, the searching out of job opportunities and the creation of jobs to meet the labor demand. This would allow welfare recipients to find adequate jobs and have a place to send their children while they are at work. We should provide expanded legal and health services. Our program in the past has been discriminatory, inadequate, narrow in scope, and clouded with too many prejudices. We must create new ideas for the future.

After the defeat of the October revision of the Nixon plan in the Senate Finance Committee, a number of Senators, myself included, presented the Department of Health, Education, and Welfare with a list of reforms that we felt should be made in order for the program to be acceptable. A number of these proposed changes were agreed to by HEW Secretary, Elliot Richardson. They are now included in the Ribicoff-Bennett amendment. However, a number of key reforms in the FAP measure have yet to be changed. It is essential that any newly revised program include these reforms. As the Nixon plan is now written, it does not effectively deal with the problems that I have previously outlined.

The Nixon plan as defined in the Ribicoff-Bennett amendment still maintains a provision requiring forced work. This provision requires mothers with schoolage children to accept a job. This disregards the fact that it may be necessary for her to remain home with her children. It is inconsistent to reform a welfare program with the goal of strengthening family unity while requiring mothers who may be desperately needed in the home to leave the home in search of employment. We should let each mother make the determination whether it is in the best interest of her children for her to seek outside employment.

This forced work provision has a number of dangerous loopholes. The administration has not adequately explained what safeguards will be taken to make sure that welfare recipients in certain areas of the country will not be exploited through substandard wages. I am also afraid that this provision could lead to unforseen circumstances such as using people on welfare to break strikes. The administration to this point has not even offered to stipulate that those in the work program be guaranteed the minimum wage. It is unconscionable to think that many Americans would be required to work at less than the recognized minimum standard. In short this is a negative aspect which can only reap negative results.

The Nixon plan does not provide for certain categories such as childless couples and single adults. Additionally, the Nixon plan weakens the rights of welfare recipients by requiring the stepfather to support the children of a woman whom he marries. This sets a double standard because State laws do not now require that a stepfather support the children in a nonrecipient household. If this provision is allowed to stand it would discourage working males from marrying women with families and thus discouraging family unity.

The version of the FAP measure now pending does not take into account the rise in the cost of living which all of us experience. Those beneath the poverty line have the least effect on the rise in the cost of living. Yet, they must still pay higher prices. The Department of Labor estimates that the cost of living as of October had increased by 5.9 percent over a 12-month period. Any welfare reform measure which becomes law should provide for this very real increase in expense. These are some of the areas where the Nixon plan fails. Where does it succeed?

One positive provision is that it makes the working poor eligible for assistance for the first time in 42 States. It provides for a greater number of day-care centers. It will raise the grants of people on welfare in six Southern States where payment level for a family of four is currently below $1,600. It will also set a minimum standard for adult categories.

I am glad to see that the administration has agreed to include some of the positive features that have been recommended. One of these features is the provision of assistance to unemployed fathers. Another is the retention of the State "standard of need" which was included in the House-passed bill. This would mean the restoration of reduced benefits to an estimated 16,000 families in Indiana alone.

These are just a few of my reactions to the pending reform of our welfare system under the family assistance plan. This is a very crucial issue. An understanding of the dynamics of welfare is essential before we can deal with the means for eradicating it. Above all, we must view a decent economic way of life as a right and not a privilege. The Nixon administration has suggested a start at welfare reform. However, this plan does not go far enough. More money is needed. Better services must be provided. As we disengage ourselves in Vietnam, we should reorient our priorities so that eradicating poverty, and the unequal opportunity that breeds it, becomes our primary goal. I therefore suggest that we stop experimenting with welfare reform and act to pass a measure which includes a test of adequate income that will show the American people our determination to eliminate the problem.

The PRESIDING OFFICER (Mr. HUGHES). The amendment will be received and printed.

AMENDMENT NO. 1168

Mr. SCOTT proposed an amendment to House bill 17550, which was ordered to be printed.

(The remarks of Mr. SCOTT when he proposed the amendment appear earlier in the RECORD under the appropriate heading.)

AMENDMENT NO. 1169

Mr. RIBICOFF (for himself and Mr. BENNETT) proposed an amendment to the amendment of the Senator from Pennsylvania (Mr. SCOTT), numbered 1168, to House bill 17750, supra, which was ordered to be printed.

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

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 1109 AND 1110

At the request of the Senator from Montana (Mr. METCALF), the Senator

from Montana (Mr. MANSFIELD), the Senator from New Mexico (Mr. ANDERSON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. JACKSON), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. YARBOROUGH) were added as cosponsors of amendments Nos. 1109 and 1110 to H.R. 17550, to amend the Social Security Act.

ADDITIONAL STATEMENTS OF SENATORS

THE PRESIDENT'S ADDRESS AT THE WHITE HOUSE CONFERENCE ON CHILDREN

Mr. BAKER. Mr. President, I read this morning for the first time the remarks of President Nixon at the White House Conference on Children, remarks delivered on December 13. There is no news in the President's speech, and I suppose that relatively few people in this country will ever come into contact with it. But I wish that every American concerned about his country—and that includes most of us, I think—could know about this speech.

In his book "The Plague," one of Albert Camus's characters muses on the existential dilemma of the moral man. Challenged on every side by the seemingly irreducible meaninglessness of life, the pointlessness of every human exertion, Camus concludes that if any act is a moral act it is to reduce the number of suffering children in the world.

The Christmas season is a time that brings home to us in a special way the value of our children. Hostages as we are to the commercial exploitation of a holy celebration, the occasion is redeemed by the innocence and joy of children. It is the spirit of a crippled child: "God bless us, every one."

As an institution, the Presidency can isolate, in great degree, its occupant from the people. Although constantly in the klieg light of publicity and controversy, it is often difficult for any President to convey to the people his essence as a man. Perhaps it is even more difficult for some Presidents than for others.

I think that in this speech of the President we are given a very clear view of the man. I was particularly interested in the little story that the President told about Walter Judd, who refused to help his child with her arithmetic, because he knew it was so important that she learn to do it herself. This story tells so much about the approach of this President to the Presidency, and I think it is little understood by the country at large.

The President has been criticized from the outset for his "failure to exercise the great moral leadership" of his Office. Although I sincerely believe that much of this criticism is genuine and deeply felt, I think it is misguided. It is misguided, in my judgment, because it is based on the premise that public utterances by a President can serve as a substitute for individual moral character. It is a great error, in my judgment, to ask that Government serve a religious function, and I am confused by the evident eagerness of some people to surrender their own personal responsibilities for the nature of our policy to institutions and to individuals whose chief function is and ought to be political.

Listen to the President:

A sense of dignity, a sense of identity, of pride, of self respect—these no government can provide. It can help remove obstacles to the child's development. It can mobilize research and provide services. It can offer advice and guidance. But all these only help make success possible. The love, the understanding, the compassion, the human concern that touch the child and make him what he can become—these are provided by people.

I hope that the people of this country will not seek to abdicate this precious personal responsibility, lulled by the deception that it can somehow be supplanted by public posturing. I urgently commend to my colleagues this speech of the President, and I ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF THE PRESIDENT AT THE WHITE HOUSE CONFERENCE OF CHILDREN, THE SHERATON PARK HOTEL, WASHINGTON, D.C.

Mr. Secretary, Mr. Mayor, Mr. Chairman, and ladies and gentlemen, all of the delegates to this Conference:

Before I begin my prepared text, I would like to express my deep appreciation to all of you who have come to this Conference, and also for the very special entrance that was arranged on this occasion.

One of the great privileges for the President of the United States, of course, is to hear Hail to the Chief, I have heard it many times since I became President almost two years ago. I have never heard it played better than by the East Atlanta School from over here, an elementary school.

Speaking as one who played a very poor second violin in a high school orchestra, I appreciate all of the work and the talent that is represented therein by the leader who was able to develop those talents.

I am very proud tonight to share with six of my predecessors, starting with Theodore Roosevelt and most recently, Dwight Eisenhower, the honor of convening a White House Conference on Children. I take very special pleasure in welcoming all of you here.

Our concern at this Conference is with the wellbeing of 55 million individual human beings who happen to be children under the age of 14, and who represent one-fourth of all the people in America.

When I refer to them as 55 million individual human beings, I mean to put the emphasis precisely on that—in fact that nothing is so intensely personal as the private world of the child; nothing so removed from the statistical abstractions of a chart or a computer.

In talking about our children, we are talking about our world and about its future, but in the most special, the most human, the most individual sense of anything we do or consider.

The refreshing little flower emblem that has been used as the symbol of this Conference is a reminder to us of one very simple and very basic truth: that the world of the child is different and very special, and full of promise and very much alive.

It also reminds us that whether we speak of a community of 200 people or of 200 million, the important thing to remember is that no two are alike.

I am sure some of you have heard the little television commercial, a musical one, that has the little ditty that goes "No one else in the whole human race is exactly like you."

Because of this, what is right for one child may be all wrong for another.

Here in Washington, in government, we have a tendency to think about things in the mass, about cities of more than a million or less than a million, of people over 65 of those under 21, about whole school systems or health delivery systems.

Just yesterday, I spent a great part of the day working on next year's Federal budget, on billions for this and billions for that, and how perhaps $100 million could be saved here in order to do something we want to do someplace else; trying to balance the needs and hopes of dozens of government departments and agencies that operate thousands of programs involving millions of people. Sometimes, after a day like that, I find myself reflecting on both the necessity and then the impersonality of it all. Budgets have to be made and they have to be followed because that is the way the real world operates. And governments have to deal with great masses of people because this is the way governments operate.

But how far removed this can get us from the perspective of the individual person. How great a tendency there is in government to lose track of people as people, to get so wrapped up in charts and projections and columns of numbers that we lose sight of what ultimately it is all about.

If there is one thought more than any other that I would like to leave with you, all of the 4,000 delegates to this Conference, it is this: to remember that what matters is one person, one child, unlike any other, with his own hopes and his own dreams and his own fears, who lives at the center of his own separate and very personal world.

I am sure that each one of you is here taking part in this great Conference because you do care not only about children in the mass, but about the child. I hope you will help us in government to keep the focus on that one child.

One of the special glories of America is that we are a nation of individuals and individualists. We produce people, not automatons. We recognize diversity not as an evil but as a virtue. We turn not to one institution alone but to many to perform the great task of achieving a better life for all of us.

We recognize, of course, the role for government, for the church, the home, the school, the volunteer agencies that are so distinctive a feature of American life. And we do know that this is a case in which individual cooks, and additional cooks, do enrich the broth.

There is, of course, a large and vital role government must play in insuring the best possible opportunities for the child.

Tonight I would like to speak briefly to you about just one government program, a Federal Government program presently being considered by the United States Senate, which I believe particularly deserves your support.

The great issue concerning family and child welfare in the United States is the issue of family income.

For generations, social thinkers have argued that there is such a thing as a minimum necessary family income, and that no family should be required to subsist on less. It is a simple idea, but very profound in its consequences.

On August 11, 1969, over a year ago, I proposed that for the first time in America's history we in this great, rich country establish a floor under the income of every American family with children. It has, in turn, been called by others the most important piece of domestic legislation to be introduced in Congress in two generations.

In terms of its consequences for children, I think it can be fairly said to be the most important piece of social legislation in the history of this Nation. I am sure you know the story of the legislation. In April, it passed the House of Representatives by almost 2-to-1. Then it became mired down in the Sen-

ate. It is still stuck there, but it is not lost. There is still an opportunity for the 91st Congress to change the world of American children by enacting Family Assistance.

In these closing days of that Congress, I want to emphasize once again unequivocally my personal support for welfare reform this year, and to urge your support for welfare reform this year.

In the last 10 years alone—listen to this—the number of children on welfare in America has tripled to more than six million. Think of it—six million children—six million children caught up in an unfair and tragic system that rewards people for not working instead of providing incentives for self-support and independence; that drives families apart, instead of bringing them together; that brings welfare snoopers into their homes, that robs them of pride and destroys dignity. I believe we should change that.

The welfare system has become a consuming, monstrous, inhuman outrage against the community, against the family, against the individual, and most of all against the very children who are our concern, your concern, in this great Conference, the children it is meant to help.

We have taken long strides—not enough, but long strides—toward ending racial segregation in America. But welfare segregation can be almost as insidious.

Think what it means to a sensitive child.

Let me give you one example. My daughter Tricia does tutoring at an inner-city school here in Washington. She tells me of her deep concern each day to see the welfare children herded into an auditorium for a free lunch while the others bring their lunches and eat in the classroom.

We have to find ways of ending this sort of separation. The point is not the quality of the lunch. As a matter of fact, she tells me that the free lunch is probably nutritionally better than the one the others bring from home.

The point is the stigmatizing by separation to the welfare children as welfare children.

I remember back in the Depression years—and if this dates me, if you can remember, you can remember, too—of the 1930's, how deeply I felt about the plight of those people my own age who used to come into my father's store when they couldn't pay the bill, because their fathers were out of work, and how this seemed to separate them from others in our school.

None of us had any money in those days, but those in families where there were no jobs and there was nothing but the little that relief then offered suffered from more than simply going without. What they suffered was a hurt to their pride that many carried with them for the rest of their lives.

I also remember my older brother. He had tuberculosis for five years. The hospital and doctor bills were more than we could afford.

In the five years before he died, my mother never bought a new dress. We were poor by today's standards, and I suppose we were poor even by Depression standards.

But the wonder of it was that we didn't know it. Somehow my mother and father, with their love, their pride, their courage and self-sacrifices were able to create a spirit of self-respect in our family so that we had no sense of being inferior to others who had more.

Today's welfare child is not so fortunate. His family may have enough to get by on and, as a matter of fact, they may have even more in a material sense than many of us had in those Depression years. But no matter how much pride and courage his parents have, he knows they are poor and he can feel that soul-stifling patronizing attitude that follows the dole.

Perhaps he watches while a caseworker—a caseworker who himself is trapped in a system that wastes on policing talents that could be used for helping—watches while this caseworker is forced by the system to poke around in the child's apartment, checking on how the money is spent, or whether his mother might be hiding his father in the closet.

This sort of indignity is hard enough on the mother. It is enough of a blow to her pride and to her self-respect. But think of what it must mean to a sensitive child.

We have a chance now to give that child a chance—a chance to grow up without having his schoolmates throw in his face the fact that he is on welfare and without making him feel that he is therefore something less than other children.

Our task is not only to lift people out of poverty but from the standpoint of the child our task is to erase the stigma of welfare, illegitimacy and of hardship, and to restore pride, dignity and self-respect for every child in America.

I don't contend before this sophisticated audience of critics that our Family Assistance Plan is perfect. Secretary Richardson, who has been before the Senate, will be able to answer questions that you may put to him because he has been before a very, very critical body.

But I am only going to suggest this: In this confused, complex and intensely human area no perfect program is possible, and certainly none is possible that will please everybody. But this is a good program, and a program immensely better than what we have now, and vastly important to the future of this country—and especially to the neediest of our children. It is time to get rid of the present welfare program and get a new one, and now is the time to do it.

For the United States Senate to adjourn without enacting this measure would be a tragedy of missed opportunity for America and particularly for the children of America.

I have dwelt at some length on Family Assistance because of its vital and even historic importance and because now is the time for Senate decision.

This represents, as I indicated, one of the things the Federal Government can do to give children a better opportunity.

There are others: our programs for the right to read, our emphasis on the first five years of life through the new Office of Child Development in the Department of HEW, on education reform, on food, nutrition, and in many others where we are trying to meet what I believe is a great responsibility that rests with the Federal Government.

I know in this Conference you will have many new ideas for things we in Government, in the Federal Government, might do.

We shall do our best to meet our responsibility in those areas where the Federal Government can best do what needs to be done. But I would also stress that equality and often more important is what States and communities do, and the school, the church, the family, the mass media, the volunteer organizations, each of us as individuals. For the child is not raised by government; the child is raised by his family. His character is shaped by those people he encounters in his daily life.

I think especially of the millions of Americans who give their time, their energy and their heart to volunteer activities working with children. You know them in your communities—thousands, hundreds of thousands all over America.

Before becoming President, I served as National Chairman of the Boys Clubs of America. I saw from the inside the wonderful work organizations like the Boys Clubs and others do, and also the spirit and dedication of the people who make them possible. There are churches and service organizations, hundreds, thousands of organizations all across America helping. They can help more.

And most important, these volunteer organizations can do what government cannot do: they can give heart and inspire hope, and they can address themselves not simply to children as a group but to that one special, precious child.

Before closing tonight, I would like to leave with you a few very personal reflections from the perspective of the office I hold.

A President of the United States always thinks about the legacy that he would like to leave the country from the years he serves in this office. I think often about that in terms of what I can leave for America's children.

I know that the first thing I would like to do for them is to bring peace to America and to the world. And here I speak not just of ending the war, but of ending it in a way that will contribute to a lasting peace, so that theirs, at last, can be what we have not yet had in this century—a generation of peace.

I speak not only of the absence of war, but also of a peace in which we can have an open world in which all the peoples of the world will have a chance to know one another, to communicate with one another, to respect one another.

The second thing that as President I would like to leave for America's children is a strong, productive and creative economy—one that can provide every family with a floor under its income higher than what is now the ceiling for most of the world's peoples.

I want to leave them an economy that provides jobs for all with equal and full opportunity, job producing not for war but producing for peace.

And beyond this, I want, as you want, America's children in the last generation of this century to have the best education, the best health, the best housing that any children have had anywhere, anytime.

I want them to enjoy clean air, clean water, the open spaces, to restore the heritage of nature that is rightfully theirs.

Although we will always have differences here in America, because this is a very diverse country, I hope that Government can help achieve a better understanding among the generations, the races, the religions, among those with different values and different life styles.

I would like to do all this and do it in the climate of freedom.

I want this generation of children to develop a new sense of patriotism.

Edmund Burr pointed out that patriotism translated literally means love of country. And he went on further to say that for us to love our country, our country must be lovely.

We do love our country—most of us—but we know it has many unlovely features. I want young Americans to learn to love America, not because it is the richest country, or the strongest, or merely because they were born here, but because America is truly a good country and becoming better, because it is truly a lovely country.

I am convinced that in my term as President we made some progress towards these goals that I outlined and I think that we, by the end, will have made more progress. But even if all these goals could be fully achieved, it still would not meet our duty to our children.

No matter what Government does for people, no matter what we provide in the way of income, housing or food, we still have not reached the essential element as far as a full and meaningful life is concerned, because what is most important is that every person in this country must be able to feel that he counts.

We have to let 55 million very young Americans, as well as those a little older perhaps, know that what they do matters, that their ideas count, that the country needs their thoughts, their creativity, their contributions.

I recall Dr. Walter Judd once said that he loved his daughter very much, and then when she asked him to help her with her arithmetic, he really could do it much better than she could, the easiest thing for him to do would be simply to do it for her. But because he loved her, he would not do it for her. He helped her learn to do it herself.

While this conference will and should make recommendations as to what Government can do for children, about how we can make life better for them, let us remember that what is most important is to provide the opportunity for each of our children to participate, for each child.

It is not just a matter of what more Government is going to do for him, but how his own life is going to be enriched so that he can do something for his fellow man.

A sense of dignity, a sense of identity, of pride, of self respect—these no government can provide. Government can help to create better conditions. It can help remove obstacles to the child's development. It can mobilize research and provide services. It can offer advice and guidance. But all these only help to make success possible.

The love, understanding, the compassion, the human concern that touch the child and make him what he can become—these are provided by people, people like you.

And the way we shape the character of the next generation we test our own character as people. And the vigor and the realism with which we approach the needs of the next generation, of each and every child in that generation, tests our devotion to humanity and our belief in ourselves.

I am confident we will meet that test. And I am grateful, very grateful, to all of you here for the concern you have shown, the dedication you have demonstrated, in helping us to do so.

Your recommendations at the conclusion of your conference on Friday will receive the most careful consideration by the various agencies to which they will be referred and by the President of the United States, not only because we in this Administration respect your view, but also because we share your concern. We share your concern about our Nation's children, our children. We share your concern that our children should receive the best that America can give them.

Now, ladies and gentlemen, having concluded my formal remarks, I would like to give you a very special invitation and explain the nature of it.

When I learned about this conference, I suggested to your Chairman, Steve Hess, that Mrs. Nixon and I would like to receive all of the delegates to the conference at the White House. He said, "There are 4,000."

I checked with our staff to see whether that would be possible, and they figured out that based on an experience over the past two years of moving receiving lines as fast as we possibly could, it would take six hours and 18 minutes to get 4,000 people through the line.

I said we couldn't do that because I thought the people at the end of the line might get tired by the end of six hours and 18 minutes.

But I do think you should know that tomorrow the Christmas decorations at the White House will be completed. Those who have seen them think they are the most beautiful they have seen.

We have various nights blocked out. Monday night is the Congress; Tuesday night is the Congress; Thursday night is the diplomatic children, and so forth.

But Wednesday night belongs to you.

We have arranged for a special tour. Mr. Hess and his staff will arrange the buses and all the other various means of transportation that are needed to get you there.

We have arranged a special tour of the White House to see the Christmas lights and we hope that some members of our family can be there at least part of the time to greet some of you.

Thank you very much. We wish you the very best.

THE PLIGHT OF JEWS IN THE SOVIET UNION

Mr. TALMADGE. Mr. President, for the past year there has been a marked increase in the persecution of Jews in the Soviet Union by the Russian Government. This is an intolerable and inhumane situation not worthy of any civilized nation in the world.

It appears to be a calculated attempt to destroy the spirit of Soviet Jews, who number almost 3 million, and to deny them their religion, culture, and heritage. Soviet Jews are not permitted to worship in freedom or to educate their children in the ancient Jewish culture. They are discriminated against by the state in securing employment and in entering universities. They are systematically denied permission to emigrate to Israel.

In fact, Soviet Jews are relegated to second-class citizens in a state society that pretends to have no class consciousness. They are subjected to the worst kind of discrimination as individuals and as an ethnic group. For example, according to the best information available, the country's almost 3 million Jews have only 60 synagogues at their disposal. There is only one such house of worship and two prayer rooms in Moscow for 400,000 Jews. By contrast, the Soviet Union's 540,000 Baptists operate 5,500 churches. Members of the Russian Orthodox faith and Soviet Baptists have a central organization, but this privilege is denied Jews.

As other Senators have pointed out and as we are well aware, one could go on and on citing cases of persecution against Soviet Jews. They are being harassed and even jailed on trumped-up charges, not because they are guilty of any wrongdoing, but simply because they happen to be of the Jewish faith. I am glad to note that Soviet Jews are not remaining silent or docile in their plight. They are speaking out and protesting with increasing intensity, and their voices are being heard around the world.

Perhaps the most compelling indictment of all is found in the fact that severe mistreatment of Soviet Jews primarily dates back to the infamous Stalin era. Stalin's dictatorship, especially during his last years, was characterized by an open policy of anti-Semitism. Although Stalin has been denounced again and again by his successors for his terroristic regime, it is of more than passing interest to me that no mention is ever made by the Soviet hierarchy today of anti-Semitism as one of his excesses. One could come to the conclusion, therefore, that successors to Stalin have accepted anti-Semitism and they even promote it, as part of official state policy.

Now, in still another blatant manifestation of the state's anti-Jewish policy, 31 Soviet Jews have been arrested and charged with involvement in a so-called aircraft "hijacking" incident, and the Soviet Union is threatening to conduct "show trials" to make examples of them. This is a travesty and an affront to all people the world over who believe in religious freedom and the dignity of man. These Jews are not hijackers or criminals of any kind. Their only desire is to leave the Soviet Union and emigrate to Israel which they revere as their ancestral homeland. I hope that the Soviet Union abandons whatever plans there may be for these "show trials," which would be a mockery of justice. These trials should be called off and the falsely accused Jewish prisoners should be released. I rise in the Senate today to express the earnest hope that the Soviet Union will listen to world opinion and renounce anti-Semitism.

AID TO VETERANS

Mr. DOLE. Mr. President, during the recent campaign and particularly on Veteran's Day, I visited with many veterans in my State. One common theme ran between them: a fear of receiving a reduction in their veterans pensions as a result of the 15-percent social security increase effective last January. In many cases, the reduction in their pensions effective January 1, 1971, would have more than offset their social security increases, thus leaving these veterans worse off financially than if the much heralded social security increase had not been enacted.

Mr. President, I am happy that yesterday, the Senate passed H.R. 15911, a bill designed to prevent any veteran from taking a pension cut as a result of the recent social security increase. This bill is consistent with the pattern of Congress on three occasions over the past 10 years in passing legislation to protect veterans from such loss. And I am glad that we have not let our veterans down, but have passed this bill in time so many veterans should not have to take a cut beginning January 1.

Also, this bill will provide an average increase of $7.47 a month for pensioners, or an average increase of 9.5 percent. This will mean that many veterans will receive a slight increase in their pension. The provisions of this bill are a giant step forward. Yet, in light of the 11 percent increase in the cost of living index since the last pension increase became effective on January 1, 1969, the increase is no windfall.

Mr. President, our veterans have served an outstanding service to this country and the freedom of the world. This bill will basically assist those veterans of World War I and their dependents. The average age of the World War I dependent is 74. We cannot afford to do less than assure them that they will not have to suffer cutbacks in their present level of income.

MILITARY ASSISTANCE TO SAFETY AND TRAFFIC PROGRAM

Mr. TOWER. Mr. President, I wish to again call attention to the Military Assistance to Safety and Traffic program, known by its acronym "MAST," which has enjoyed great success as a pilot project in my home State of Texas.

This program utilizes military helicopters for transportation of highway and other accident victims who suffer injury far from required medical services. The program is a cooperative effort of the Federal Government and State and local authorities.

Due to the success in Texas, the program is now underway in several other States.

Earlier this week, Transportation Secretary Volpe said at least 61 lives may have been saved through this experimental program during its first 3 months of operation.

I am pleased that operation of this program is being continued, and I look forward to the time when it is possible to establish it across the Nation on a full-time basis.

ALBERT GORE—THE END OF A POPULIST

Mr. RIBICOFF. Mr. President, each election brings changes in the U.S. Senate. One of the great losses to the Senate and the country will be the absence of Senator ALBERT GORE when the 92d Congress convenes on January 21, 1971. We all recognize ALBERT GORE as one of the great and able Senators of our time.

David Halberstam, an outstanding journalist, has written an excellent and most interesting article in the January 1971 issue of Harper's magazine. I ask unanimous consent that this article be printed in the RECORD.

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

THE END OF A POPULIST

(By David Halberstam)

October, Nashville. It is not home but it has, I think, those qualities which people think of in terms of home. The good times seem a little sweeter, the bad times fade into the background; there was no loneliness, my decrepit cars never broke down, I was always able to pay my phone bills, I was never frightened to death covering Klan meetings. It all seems so mellow. All antagonists become friends, having shared common battles. I wrote *that* about the Governor? He said *that* about me? I become in my mind and theirs a good old boy. Can it be? Old Halberstam. Nashville was a happy time for me: four years here as a reporter, where one fought good battles, winning sometimes but not always, finding even in the ones that I lost a certain belief in the processes of the country, a trust in my profession. That was a long time ago. When people wore the American flag then it was to show that they were not segs, because the segs of course wore the Confederate flag. Now on behalf of a stupid and futile war the segs wear the American flag, and whether we have converted them or they have converted us is a moot point. But I have an abiding affection for this city, this state, the people here, a feeling for the *Tennessean*, the paper I worked for (in a way I never felt a part of the *New York Times*); a belief about the world around me, that it would somehow, despite this disappointment, or that one, become a more decent and equitable society.

A mood of course depends on your perspective. Warsaw to many who arrive from Paris is drab and joyless; to those who arrive from Moscow it is colorful, joyous, swinging. I did not come to Nashville from Harvard, but rather, in 1956, at the age of twenty-two, I had arrived from West Point, Mississippi, after less than a year there as the one reporter on the smallest daily in the state. Mississippi is different now, it is going through its own amazing revolution, but then it had a special darkness; for a variety of reasons it lacked freedom of speech. There was a guarded freedom of conversation on the race question if you knew whom you were talking to, but speaking openly in public about obeying the law, about race, about integration would cost a man, white or black, his job. As such it was probably the only state in the union with a genuine set of exiles, young, talented men who could no longer stand it and were driven out, going to New York, Atlanta, or Washington, and keeping in touch with the homefolks almost by under ground. The contrast between the particularly suffocating atmosphere and Tennessee was startling, and it was against this background that I measured Tennessee.

Tennessee was still a Populist state then, with little of the Deep South cotton mentality. It was Southern enough to see the race question raised year after year in campaigns, but enlightened enough to strike it down. As the gas and power people had used race so successfully to camouflage their political power grabs in the Deeper South, here the TVA with its cheap electrical power had given Populist, liberal (even radical) candidates an economic base from which to campaign. It had strengthened the liberal forces, and they had broken the poll tax and thus smashed the Crump machine a few years before I arrived. In those days of the mid-Fifties the ranking political figures were Kefauver, Gore, Clement—all liberal and sometimes radical on economic matters, all humane on race, all men of national stature. A young man traveling the state was constantly surprised by the capacity for change in Tennessee, the ability of a public figure to speak difficult truths.

I had left here in 1960 the day after Kennedy was elected, but in that year I had covered Estes Kefauver's last race, against a West Tennessee judge named Tip Taylor. The Taylor campaign was put together out of the traditional ingredients for those challenges: race, patriotism, and local chauvinism ("A Senator For Tennessee, not From Tennessee") and everyone was scared. The reports were that Estes was in bad trouble, that they were going to get him this time (*they* were always going to get Estes, it seemed). We were campaigning one day in Portland, in Middle Tennessee, and we had entered with the usual warnings about disaffection. Estes was not with us that day—he was voting in Washington—and so his campaign manager, Frank Gray, a lawyer who looked like a local Fred Allen, spoke for him. "I realize I'm a damn poor substitute for Estes Kefauver," he began, "but then so is Tip Taylor." Laughter. Heightened interest. "Now I'm just a country lawyer from Franklin, Tennessee, and my client is charged with voting for the 1957 civil-rights act, and I just want you to know that I'm here to plead him guilty. And I want you to know that if he hadn't voted for it, I wouldn't be here speaking for him." Those old farmers may not have known what the civil-rights bill was, and they may have suspected that they didn't like it anyway, but they did know something about honesty and courage, and they began to cheer and applaud, and I never doubted from that day that Estes would win reelection, which he did, almost two-to-one.

Now ten years later I was coming back in a time of limited faith. I was flying from Boston where I had spent a week at Harvard, had seen one bomb go off, and had watched the anger, alienation, and nihilism of Harvard undergraduates; blacks bullied whites, the smell of Crow Jim was in the air; one set of values had collapsed, as yet not replaced by anything else. One, of course, does not go to Harvard for reassurance, nor to New York, the greatest of our many navel-watching centers, and so in this year of political turmoil I had come back to Tennessee not so much to seek or find reassurance, because I do not think we can find reassurance anywhere in the nation, but to go back to a place I knew best, to find out what had happened in the years I had been away. I knew that Albert Gore was in for the most terrible fight of his life, and because he is an old friend and someone I admire I could not in conscience be anywhere else.

I took with me the words of David Riesman. We had talked at Harvard about the war. He had recalled a 1961 meeting with two of the intellectual activists of the New Frontier, and they had been talking about limited war with the combative aggressiveness of that era. He had listened in some pain and finally had asked them if either had ever been to Utah. No, they had not, and why Utah? Had he ever been to Utah? No, Riesman had answered, but he had read a great deal about the Church of the Latter-Day Saints and because of this he did not for a minute underestimate the evangelical tradition in America, the emotion of certain issues, like war and religion, and he thought that limited war was a dangerous concept. Could one limit the emotion of a limited war? The United States, he had said, was not some small Eastern Atlantic seacoast elite which could understand these lofty terms and respond in kind, but a nation held together by a thin fabric, with latent passions barely submerged, passions which pulled in different directions. And now I was going back to see what those passions had done in Tennessee, particularly against Albert Gore, who, knowing about those passions, had fought long and hard to avoid the war, as far back as 1964.

The man. I spent the first day looking at Albert's television commercials. Tennessee is a small state, and it is a mark of the old-breed politicians that they are known by their first names—not Kefauver, Gore, and Clement, but Estes, Albert, and Frank. The state is bigger now and the new breed less interesting, less personal in approach, separated by television, and perhaps last names will do. Howard Baker, the new Republican Senator, is not known as Howard, or, for that matter, Baker. He is known as Howard Baker. Bill Brock will probably be known as Brock. I wondered if Gore's TV would be any good, particularly since this is essentially a television campaign. I had a certain amount of doubt. Albert is an old-style Senator, a Roman Senator really. One can almost imagine him seated with Webster, Calhoun, and Clay. In fact, it is hard to imagine Albert as anything *but* a Senator. But if he has almost an old-style politician's looks and tends to be a little hot in style in an age of cool, I wonder if he could adapt to the new media. Brock, after all, was said to be new and slick, so understated as almost not to be there; his best commercials were other people speaking for him.

No worry. It is an amazing transition for a politician of his generation, particularly for a Populist. The Gore stuff is excellent. Charley Guggenheim, one of the new bosses of American politics, a specialist in political TV commercials, did it for him and it worked out well, though there was a certain uneasiness about the length of the hair on the Guggenheim crew. All *cinéma verité*, $85,000 worth. I think the clips might seem too hot for the Eastern seacoast, but down here it all feels just right, all natural against a Tennessee background. One spot shows the

Senator with his young son, in uniform and headed for Vietnam, a poignant moment because of the charges against his father's patriotism. Albert reaches out, touches his son's hand, and then says very gently, "Son, always love your country." The best of the chips shows Albert in his hometown of Carthage at the courthouse, surrounded by country folk. One goes to his car and gets a checkerboard. He's playing Albert and is beating him. "If you beat me two straight games I'll take away your Medicare." Flashes to gnarled hands gripping canes. Back to the checkerboard, Albert's piece disappearing, and the Senator laughs. "I've been up there in Washington working to raise his Social Security and he's been down here laying to beat me at checkers." As he gets up, a voice behind him calls, "Albert!" He turns around and says to an old and withered man, "Yes, Benton." "Albert, do you remember six years ago when I said that if I lived another six years I'd be here to vote for you?" "Yes, I do, Benton." Pause. "Well, here I am, Albert." Albert has survived television the way most politicians of his generation have not. Part of it, I think, is the sheer intelligence, the ability to adopt to new styles, without losing old beliefs. That plus the looks: he is a strikingly handsome man. The hair is thinning but still Senatorial white, the face is ruddy, the skin young, and he looks very good on the tube. Besides, he is a forceful speaker, with quick, pungent responses to interviewers' questions.

He is, however, an old-fashioned man, with old-fashioned gestures. Even his words are old-fashioned. Tactics used against him are a *damnation*. Some people are the *scourge* of politics. He is courtly, a rare trait in American politics, and there is a slight tendency to overstatement, befitting a Tennessean born in his generation, weaned on stump-speaking, who has never seen anything about his past or his beliefs that he ought to change. He has an extraordinarily fine voting record, and more than just a voting record, an exceptional record as a Senator. Yet he has never connected with the Eastern intellectuals, he is not their kind of man, he does not speak their language, not the same style or wit, because, of course, he is a Populist and the sworn enemy of any good Populist is an Eastern intellectual.

His race was, I think, the most important one in the country—no less than an authority than Spiro Agnew says so, and named him victim number one—and yet there was little interest in New York about it. In Tennessee, Albert has always been considered a little arrogant and uppity in contrast to Kefauver, who was merely folksy. Part of this is the mails. Estes flooded the U.S. mails with thousands and thousands of letters telling everyone that their help was mighty good, that he was, well, if nothing else, thinking of them. Albert does not write letters, in part because he does not like to, but also because he believes it is wrong to waste the government's time and money to send foolish letters to boost the egos of constituents. (One lawyer who was a friend of Albert's wrote him congratulating him for not signing the Southern Manifesto in 1956; he got back a letter which was the same one sent to people who jumped on Albert for failing to sign it.) Albert is, of course, always compared with Estes here and is considered immodest whereas Estes was considered humble. Estes was no more humble than Lyndon Johnson, if the truth were to be known, having run twice for the Presidency, largely in response to his own urging, but he concealed his ego better than any man I ever knew. Albert wears his openly, almost naively. He is so pleased with being a United States Senator, that identity is so complete for him that he cannot hide the sheer joy of a poor Smith County farmboy who was a schoolman in the day and drove to Nashville at night to attend the YMCA law school, and who always wanted to go to Congress, and indeed did go and spent thirty-two years there. It is not so much his ego which is on display, it is the U.S. Senate's ego and dignity which is on display, which is why he seems at times aloof and untouchable. To affront Albert Gore is to affront the Senate.

He is, despite thirty-two years in Washington, still ferocious on the subject of big money and what it can do to political processes—the tax benefits the rich have, the ability to use their money to bend the system their way. He hates and fears large concentrations of money, be it in business, people, or foundations. The Populist quality has helped keep him out of step in Washington; these are not good days for Populists, and he was never a part of those happy and exciting Kennedy years. He was the outsider even then. Gore had hoped to be Secretary of the Treasury, and he had not minded losing it, but saw in the choice of Douglas Dillon the annointing of the enemy. He remained out-of-step in the Johnson years; Johnson had a Populist streak in him, that and a capacity to get along very well with big money, but the difference between the two was personal as much as anything else, a lingering animosity. Johnson, above all else, liked to control and dominate other men, and Albert Gore is a loner, a man not to be controlled.

The TV stump. Campaigning in Memphis, flying down here with the Senator. He is optimistic, full of himself. He had debated Brock the night before and had eaten him alive. Brock is a weak speaker, and though his campaign is filled with charges against Gore, he does not make them in person. "Subliminal smut" is what young Al Gore calls it. A month ago the Gore campaign had been going very poorly, but in the past few weeks it has begun to catch on and is moving; indeed, there are reports that Brock's polls show Albert ahead now. The staff (the staff today is his son and a twenty-three-year-old press aide, for there is not even an advanceman on his trip) is trying to keep the news away from him. They think he is cocky enough without it.

The schedule is like this: jet rides into the four great media sections of Tennessee, trying to hit at least two a day, makes news, get on the night news show, and then move out. It is almost completely different from campaigning ten years ago. In those days, television had not yet arrived locally as a political factor. Local television newsmen were, in effect, ambulance chasers, arriving on the scene of an accident, doing short clips of bodies hauled from wrecks and stuffed into ambulances. Now the local stations have beefed up their crews and put on good strong shows at night. On the city editor's desk at the *Tennessean*—*O tempora, O mores*—are three television sets. Of course, the courthouses have dried as a center of communities here anyway; they were the center of a poorer time when people had more time on their hands; now people have less time and they are more mobile, a different class of people, younger, affluent, more in a hurry. So there is little stump speaking; one visits a community more to let the people know you were there. A courtesy call. So campaigning is not nearly as much fun. It is all plastic now. There is a good deal of apathy about the election in the state—and I suspect that one reason is that television has made it all less personal, less direct in one sense, standing between the voter and the electorate; and yet it has made the campaign too long in another sense, bringing the candidates into everyone's home every night for five months.

The question, of course, is how much a media campaign will hurt Albert. Television killed Frank. Frank Goad Clement. He did not like the middle name, perhaps it seemed too country. In 1952, when he ran for Governor the first time, he had been sensitive about both the middle name and his age, or lack thereof. Thirty-two years old. Bill Maples had written a much-admired lead in the *Tennessean* when Frank returned to his hometown of Dickson: "Frank Goad Clement today returned to the scene of his recent boyhood." A poor boy with an ambitious father and an enormous ambition of his own, evangelical, with a Populist streak in him too. The Boy Orator of the Cumberland. In his late twenties, elected the head of something every year, be it the American Legion or the Young Democrats. Running for Governor at thirty-two, with the Biblical phrases running from his lips, closing meetings saying, "Take my hand, precious Lord, and lead me on." ("I'm sure the Lord would like to," said Gordon Browning, his opponent, "but Mister Crump has him by one hand and Daddy Clement has him by the other, and it's just a little difficult for the Lord to get very close to him.") He was an old-style orator, silver-tongued, and people came from everywhere to hear him speak, three, four thousand people turned out. When he spoke near the borders of the state, a quarter of the audience would be out-of-staters come over to hear this young man make his speech. He would talk, one hour, two hours, saying nothing really, but saying it brilliantly. At thirty-two, the world seemed open, he would be Governor, with a beautiful wife named Lucile; he was liberal or liberal enough (the first Southern Governor to protect Negroes at an integrated school in his own state); he could charm any and all with his personality, and did. He charmed Harry Truman, who made sure that Frank keynoted the 1956 Democratic convention, a job that young Senator Jack Kennedy wanted. It was the greatest platform of his life. He was on the cover of *Newsweek* that week, and there were hopes—and fears—among those who knew him well that he would go up there and sweep them off their feet, stampede them with words, maybe not just the Vice Presidency, but the Presidency, too. It could happen with that voice.

Well, history is cruel. The 1956 convention will be remembered as much for giving us the Stevenson-Kefauver ticket, as for giving us the Huntley-Brinkley ticket. It was the coming of television to American politics, and Frank never understood. He gave the last radio speech at the first television convention. How long, oh, how long, America? "The Republican party," someone typed in the pressroom that night, "was smote by the jawbone of an ass." When the convention ended, Clement was finished as a national figure. From there, the downward spiral seemed to accelerate. He was out as Governor at thirty-eight, and he had gone up so quickly that he was unprepared for the fall, and no one opened the car door for him when he got out. He began for the first time to come apart, drinking more, though swearing, as a good Populist should, that a drop of liquor had never passed his lips. He began to age quickly, and he did not have the kind of looks which aged well; he ran to flesh and the decadence seemed to show in his face. In 1962 he was reelected but the margin this time was slimmer, the crowds were smaller, and it was all getting away from him. He tried television and it betrayed him and in 1966 he ran for the Senate seat using the old techniques, but the crowds were not there. A few of the old country people did come, but he had lost the old appeal, the people did not want to hear the old speeches, or see galluses, or hear about God; they wanted respectability and he reminded them of the past, of what they were trying to forget. He lost and at forty-six was an old man. This year, with his wife suing for divorce, Frank Clement drove his car one night across the stripes of a highway and was killed in a head-on collision, dead at fifty, one more American tragedy.

The opponents. We had finished up the night in Memphis very late after the debate between Brock and Gore at a Jewish Community Center. Brock is absolutely shameless; he seems to be the founder of the State of Israel: Gore is pro-Israel, but his style is more correct. It is my first look at Brock. Young, rich, sincere. But Brock is sincere. (His bill-boards and TV clips say: Bill Brock Believes. Believes is the code word for Nigger. Against busing, for the war, for Carswell and Haynsworth and someone worse if they nominate him, I'm sure. They expanded the billboards later in the campaign to say, Bill Brock Believes in the Things We Believe In.) Bill Brock is young and up-and-coming. An achiever. Gets into clubs and becomes the President. He has the look of the President of the local Jaycees who has just led the other young Turks in the club against the old order on the issue of serving better luncheon meals. For good government and against muscular dystrophy. A success in business, rising to the head of his company (the Brock Candy company). Runs for Congress, wins, and the real Bill Brock emerges; the Democratic party had deserted him all right, he votes a straight Goldwater economic line. A great record for Albert to run against, and he is running very hard indeed against him. It has made Brock vulnerable and has helped turn the campaign around; Gore now has a chance.

Brock is, in fact, a pretty pallid piece of work. Yet, it is not a pallid campaign. Though in debates and in personal confrontation and in his own speeches he stays away from the issues he has raised, this is in fact the most disreputable and scurrilous race I have ever covered in Tennessee. It is made all the more shabby by the fact that he injects this stuff into the atmosphere at one level and them acts the nice young man. His newspaper ads and television ads are hitting away daily at the most emotional issues they can touch. His media firm came down here a year and a half ago and found that the five most emotional issues were race, gun control, the war, busing, and prayer, and they are making this the campaign. Keep Gore answering false charges. It is not the old, sweaty, gallus-snapping racism that was once used against Claude Pepper; rather it is cool and modern. And while I have covered shabby racist campaigns in the past, there is something about this one which is distinctive. This is the first time that a campaign like this has been tied to the President, the Vice President, and the Attorney General of the United States.

Old Estes. The optimism at Gore headquarters is both real and manufactured, but I am very uneasy. Albert is in serious trouble, the whole voting shift in Tennessee is against him. It has been shifting to a new Republicanism for the past decade. Prosperity has come to the sons of the old solid Democrat dirt farmers who first elected Gore. The TVA worked, brought factories, raised the income, and made some Republicans here. Ten years ago the Democrats had both Senate seats, seven of the nine House seats, and the statehouse. Now the Republicans have one Senate seat, are favorites to get the second, are even greater favorites to take the statehouse, and have four of the nine House seats. East Tennessee has always been Republican; in West Tennessee the race question has driven the whites to the Republican party, and in Middle Tennessee the race question plus new prosperity has hurt the Democratic party. In 1964, Dan Kuykendall of Memphis challenged Gore and, in a year that Johnson beat Goldwater here, 558,000 to 413,000, Gore narrowly beat Kuykendall, 471,000 to 420,000. The figures have not improved since then, and the erosion of the Democratic party has continued at an alarming rate. The drift has been going one way in Tennessee, but Albert has defiantly been going the other way, voting against Haynesworth and Carswell and then against the ABM. So the voters have edged away from him. What is particularly chilling is the erosion in Middle Tennessee, normally his heartland. In 1958, despite the racial slurs, he had carried Davidson County (Nashville) against former Governor Prentice Cooper by a margin of 44,000 to 15,800; in 1960 Kefauver carried it against Taylor, 66,000 to 24,000. Yet this year in a primary against very weak opposition, Gore won by only 400 votes, 39,100 to 38,700 against a former television newscaster who picked up the Wallace vote. The Gore people know this and they are aware of the fact that the polls have not been good, but they point out that Estes had this same problem, but no one was ever for Estes until after the election, that people did not like to admit they were for Estes because they were immediately accused of being nigger-lovers.

Estes, of course, was *sui generis*. Not just Estes, but Old Estes. (It is inconceivable to think of calling Gore Old Albert.) A maze of contradictions, folksy Old Estes, who was one of the least folksy people I have ever met, donning that coonskin hat because it was good politics, but hating it, the wearing of it dictated by necessity and his consuming ambition. He was in reality the almost icy Yale Law School graduate. "I've met many self-made highbrows in my life," Max Ascoli once said of him, "but Estes is the first self-made lowbrow I've ever met." I knew hundreds of people who thought they were good friends of Estes, mighty good friends indeed, though if you asked them what he had said to them, they could not recall, the reason being, of course, that Old Estes had never said anything to them. He had listened to them, or better still, had seemed to listen. A farmer would ask him what he thought about Red China, and Estes would say, Well, now isn't that interesting, what do *you* think of Red China, and so the farmer would tell Estes what *he* thought of Red China, while Estes would listen, though I often sensed that his mind had wandered off somewhere else, that it was dwelling in other places amidst sweeter pleasures. That night, the farmer would go back to his wife and tell her that he had met the famous Senator Kefauver, and they had talked about Red China and the Senator had a lot of good ideas (if a farmer asked Albert about Red China, Albert, bless him, would tell all; duty-bound as a United States Senator, it would be very good, very intelligent, and would no doubt annoy the farmer no end). Estes was reputed to have total recall of names and faces, though it was not true, I had seen him stumble over the names of his own family. But people believed he knew their names and they would line up to shake hands, and there would be a moment of silence while Estes grasped for their name until they supplied it. "Bill Robbins, Senator." "That's right." he would answer, "you're Bill Robbins, I remember you." He bumbled through everything, always getting things wrong, but like everything else he turned this defect into an asset. People would watch him stumble through and they would say to themselves—there's Old Estes up there and he's not going to make it without my help, I've got to help Old Estes. It was a participatory democracy before its time.

His last campaign had been very tough. It was mostly racial stuff the opposition playing "Dixie" everywhere. A young college boy on Estes staff, angered by this and by Tip Taylor's superpatriotism, played an old World War II hillbilly song as the Estes theme:

I'd see Lincoln, Custer, Washington, and Perry,
Nathan Hale and Colin Kelly too.
There's a star-spangled banner waving somewhere,
Waving o'er the land of heroes brave and true.
God gave me the right to be a free American
For that precious right I'd gladly die.
There's a star-spangled banner waving somewhere,
That is where I want to live when I die.

Though I realize I'm crippled, that is true sir,
Please don't judge my courage by my twisted leg.
Let me show my Uncle Sam what I can do, sir,
Let me help to bring the Axis down a peg.

There were towns in West Tennessee where no one would shake hands with him, or show him around. They wanted to humiliate him, but he had gone through it, and never lost his dignity, nor shaved it on the race question. The old coalition had worked in those days. He had run twice for the Presidency and in 1960 it was past him, it was going to be Kennedy and for some strange reason he was committed to Johnson. He had wanted desperately to go to the convention, presumably to help Lyndon, but in reality because he thought it just might work, he might just walk on the floor and the lightning would strike. It would not have happened of course, though he had strength and character and intelligence, and in 1968 he would have looked very good indeed walking on the floor. But that was all hopeless. The charge they had made was that Estes, well, he was all right on domestic affairs, but he didn't know foreign affairs, those people from Harvard did, and perhaps they were right, although I knew Estes well and I cannot conceive of him ever undertaking a Bay of Pigs or getting us into Vietnam.

The workers and the guv. If the old coalition still worked for Estes, it is clear that it will take extra work to put it together for Albert. He has the labor leaders, but that is vastly different from having the working man. You can make any number of cases for what went wrong between the Democratic party and the working man. My own favorite is the great failure of the party over the past twenty years to do anything about changing the tax burden placed on the working class and the middle class, while the very rich acquired smart tax lawyers to teach them how to escape responsibility. Thus the working people found themselves paying high taxes and getting very little in the way of services, since the money was going largely for defense and corollary needs. The problem is particularly acute in Tennessee, where labor was unusually susceptible to Wallace—particularly among young workers, new to unionism, new to the working class, not having grown up in families where labor and its ties to the Democratic party were part of a certain tradition, where the old myths were passed on generation to generation. A classic example is the local United Auto Workers chapter at the local Ford Glass plant here, a plant which was founded in 1956 and a union which is now a hotbed of Wallace support. "The first time most of my people ever got interested in politics was because of George Wallace," said Don Corn, the head of the local. "The first rally they ever went to, the first button they ever put on, the first bumper sticker, all of it was for George Wallace. Hell, they took up a collection for him in buckets outside here and they got $1,100. I can't get that for a dead man in the union. George Wallace was theirs—they felt they were a part of George Wallace and he was a part of them."

The local, the only one in the UAW to support Wallace in 1968, is a good example of the new industrialization in the South and what it has done to politics. Ford came here in 1956, and offered about 2,200 jobs, and the pay, currently averaging about $8,500, is the best in the area. Most of the workers here,

as in most new factories in Tennessee, do not come from the cities; three-quarters of them are country boys who do not even live in Davidson County but commute from rural counties: country boys with little education. In the old days, in order to make a living they had to go to Detroit or Chicago, where they spent their money on rent, food, and other essentials; otherwise they stayed home or hunted and fished, and worked on fringe part-time jobs. In most cases, no one in the family ever made more than $2,000 a year and so $8,000 seemed astronomical. They were rich, they went on buying sprees for new houses, $14,000 houses, two cars, new furniture on the installment plan, color television, and boats to fish from. In the process, they came up with enormous debts. Union officials throughout the area now estimate that up to 40 per cent of their members have serious debt problems; the newest thing for unions to teach is something called "debt management." Out of this comes an enormous amount of frustration, to be making that much money, to be paying that much tax, and still be in debt. A friend of mine, who does tax returns for local workers, says he knows the cycle very well: "They've made about $7,000 a year in the factory and picked up another $2,000 through the soil bank. You go through their returns and they owe $1,500 in taxes. And they're pissed off. Mightily. You can see them thinking, 'Where does the tax money go? Welfare. And who gets the welfare? The niggers. And who did I just see on my color TV raising hell and carrying on and burning some damn thing? The niggers.' And so they're angry as hell. They're having to pay for the first time in their lives for what they've always been getting in the past."

The Wallace thing seethed through the local union. No one could stop it. There was no effective state Democratic party leadership on the issue, no real regional labor leadership on it. Local union officials who tried to fight it were run out. The new unions were unstable, the membership had little ties to the parent organization, or to past battles and victories. In Nashville the frustrations began to show racially. Incident after incident took place. When Martin Luther King was killed, Ford wanted to fly the flag at half-mast. The workers threatened a wildcat strike; we ain't working behind no damn half-mast flag, for no Martin Luther King. The strike was averted. Then when Lurleen Wallace died they wanted the flag at half-mast for her. Another strike was narrowly averted. As they say in Tennessee, it was rough, I mean *rough*, out there.

The national issues were coming home. From 1956 to 1966 Ford, acting on its own, began to show radically. Incident after incihired about 2,300 whites and 50 blacks. In 1966, under the Johnson Administration's pressures for equal employment—hire Negroes or lose your government contracts—Ford made a major effort. About 280 of the next 300 workers taken on were Negroes. The whites, of course, all had cousins and brothers and kinfolks they wanted jobs for. But they lived with it. Ford did not go out and hire unskilled blacks. It went to Avco and Temco and Alladdin and hired their best blacks away, men with nine and ten years' experience, something relatively easy to do because Ford paid such good wages. Then in 1969 when the grinding and polishing line was automated and phased out, 300 workers had to be laid off; they were cut loose by seniority and they were almost all blacks. The blacks then formed the Black Labor Caucus, demanding their jobs back, wanting Instant Seniority. It became a genuine *cause célèbre*. They appeared on television, demanded and got NLRB hearings, and met with union officials. And it all simply heightened white fears—they were not just demanding the same as whites, but wanting more, wanting specal treatment, just like the ones up North on the TV every night. Pushing too hard. Just like they knew they would.

After the primary, Gore began to work on the unions, hitting the old economic issues. The feeling against him among the workers was fairly strong, and Corn, the local leader, who tries to stay out of national political issues, was not eager to be involved with him. But people in Tennessee and elsewhere began to pressure Corn, and he finally was willing to go to the plant with Gore, though the Gore people noted that he stood about five feet back from the Senator. But now in late October it is beginning to turn around; the economic issues are coming home; polls taken among the workers show Gore leading about two-to-one. He has to carry people like this at least two-to-one to win, and so there is a new optimism in the Gore camp.

Carlton Petway. It is not just the whites who are a problem. It is the blacks as well. The problem with them is apathy. The black vote in the primary was small in part because it rained that day, because the ballot was too long, and perhaps because there was some foot-dragging in the Negro community. Now there is nervousness about the black vote (the last day of the dog tracks in West Memphis, Arkansas, just over the border, is on the night of the election. Legend has it that the blacks just *love* the dog track. Will they skip voting to make the track? Things like this haunt the Gore headquarters). That and the fact that the blacks are a little cool to Albert; he has never cultivated them because he doesn't really cultivate anybody. So they may stay home. Those who vote will vote for Gore and John Jay Hooker, Democratic nominee for Governor. But how many will there be?

Perhaps they feel their problems can't be remedied by the ballot. Four years ago, the Negro leaders came to the headquarters of Ross Bass, who was running for the Senate, and said they wanted to work for Ross. He had been good on civil rights, even as a Congressman. In the past, the negotiators of the black vote had always talked in terms of money to bring out the black vote, to grease the skids. But with Bass, they had not wanted money, this time they were partners, they wanted to be treated just like white folks. And it worked very well. This year, however, the same group of black leaders from the Tennessee Voters Council showed up to talk with the Hooker and Gore people and presented a budget of around $220,000. The pols were appalled; the assumption among the whites was that the mood was bad in the black community, that the black leaders knew this, and knew they couldn't get out the vote, and so presented an outrageous budget, knowing in advance that the whites would have to turn it down and thus preparing their own alibi in case the black vote failed.

If the problem with Gore is his own lack of emotion with the blacks (his failure to make special gestures, his belief that his record speaks for itself is not unlike that of Gene McCarthy), the problem with Hooker is another thing. He is in the Kennedy image, which means that he wears an Eastern suit with no padding in the shoulders and has a good-looking wife. He ran a very liberal campaign in 1966 and just narrowly missed the Democratic nomination for Governor. Now Hooker has trimmed, and instead of running an ideological race, he is running a classically factional one, trying to hold together the Democratic state machine—throw the rascals back in—all the Democratic groups which have traditionally warred with each other. "In 1966," says my old friend John Seigenthaler, now editor of the *Tennessean*, once Bobby Kennedy's right-hand man and a close friend of Hooker, John Jay got up there and said, 'I'm against capital punishment.' It was a hell of a thing to do in this state. [Death row in Tennessee is largely populated by Negroes.] Well, if he says it now, he's beat and the blacks know he's beat. So he's not saying it and, hell, they know why he's not saying it, and they're still for him, but they've got to be saying to themselves, 'Should we really care, should we really make the effort—here's a man who thinks it but he won't say it.' Is that good enough anymore?"

I asked Seigenthaler how Wallace was able to carry Davidson County. "The Chicago convention," he said. "That was the flashpoint. That did it. These people are Democrats, it was always their party and they watched television for four days and saw the whole place come apart—kids with beards, and cops, and dirty words, riots, the whole thing. Just like George Wallace had promised them. And that did it. It all came home to them."

A breakdown, Carlton Petway is taking about black political apathy. Gore? Well, it's hard to get people in a housing project interested in a race for a Washington office. "Gore does things for blacks as the poor but not for the blacks as blacks. His staff is all white, I hear. If this were a local race, with control of police up for grabs, they would vote. No problem on things that touch them." Carlton Petway is thirty years old, black, a member of the State House of Representatives, from Nashville. We are at a swank integrated civic club. Everyone here seems to know Petway—waiters, lawyers, everyone. Petway is a classic example of the product of the new Negro revolution. Ten years ago he was a student at Tennessee and sitting-in at lunch counters, getting arrested. Then on to law school, returning as an attorney for the Labor Department, the first black one in memory here, then an assistant U.S. attorney trying civil-rights cases. Good at it, very good, and now a state legislator. He tells me about the differences among young Negroes in Nashville. They are trying to find themselves in the history books, wanting to find their identity. "Five years ago they wouldn't have said a thing about the books, about what it said of them, about black cheerleaders. Any of that. All they wanted was to make a good impression. Like their parents told them to. All the middle-class values."

The talk shifts. I suggest that it seems in some ways more relaxed here, less tense, with a more genuine sense of community at certain levels than in the North. It is a hard thing to describe, but integration does exist here at more levels than in New York, and it has a more natural feel. Petway thinks it is true. "The black ghettos in the North and South are different," he said. "In the North there is ghetto as far as the eye can see—there is no escape from it, you get the feeling you can't get out of it. Here it's easier. You can be less than middle-class and move into an integrated new housing project in a suburban area. There's simply more space." I mention the names of Negro leaders I used to know. To a degree they play less of a role, the problems are different now, there are no longer the overwhelming questions of survival and minimal rights. Now the issues are more subtle. People in a housing project get stirred up, have a meeting, get on TV, and find a leader. Petway says, "It's better this way. More degree of community participation. No longer just a few spokesmen and the rest of the community following, ratifying it. Now the community speaks for itself." We head for the courthouse. Along the way everyone, black and white, seems to know Petway. The greetings are friendly, easy, respectful. He is not a Tom and yet they are at ease with him; glad, I think, finally, because he is not a Panther, carries no weapon, and is simply a lawyer; there is an acceptance of him that is staggering—Petway has integrated the most exclusive club of all—Carlton Petway is a good old boy.

The family and others. It is a lonely campaign. At the beginning, one man and his family alone. Little money, little help from

established politicians—although he was a senior Senator when his aides tried to put a businessmen-for-Gore ad together, they could get virtually no reputable big names. No organization at all throughout the state. People help him during an election and then slide away. ("If he wins," says one friend, "the day after, Albert is going to think that the people of Tennessee are the greatest and finest people in the world. The second day after the election he's going to be grateful to the people who worked for him, and the third day it'll be something the people of Tennessee owed to him.") to a large degree it is a family campaign—Pauline (Mrs. Gore, a strong, sensitive, intelligent woman), Nancy Gore Hunger, his daughter, and Tipper (Mrs. Albert Gore, Jr.), speaking everyday throughout the state. Pauline was not that anxious for him to make the race, although, faced with this kind of challenge, she did not want him *not* to make it. A large part of the reason is their son. Young Al graduated from Harvard this year; he is militantly anti-war and did not want to go into the Army. But he was faced with a terrible choice: to stay out and avoid the draft in a state like Tennessee would cost the Senate one of its leading doves. His family told him to make his own choice, that they could not care less whether Albert ran and won. In fact, Pauline, who is bitterly and militantly against the war, told young Al that she would be glad to go to Canada with him. Young Al called an uncle down in West Tennessee who questioned him on why he was so antiwar. "I guess," he said, "it's my Baptist religion." "I never knew there was anything in the Baptist religion against war," the uncle said. "What about the sixth commandment, thou shalt not kill," young Al answered. But the conversation had given young Al the feeling of what the campaign against his father would be like and he had decided to serve. Those who know the Senator suspect that he would not have minded at all running a campaign with a son who refused to go to Vietnam, that he would in fact have relished it—the drawing of the line, the ethic of it. Show Albert the grain, says a friend, so he can go against it.

So, on his own, Albert turned the campaign around. He hit the economic issues. When Agnew arrived in Memphis, Albert showed up to greet him. When the Republicans used the theme of fox hunting as a gimmick to get the gray fox, Albert picked up the nickname and ran with it. Calling himself the Gray Fox, giving Gray Fox speeches ("As a boy from the hills I learned that the Gray Fox—particularly the breed from Carthage, which is now known as Gray Fox country—knows his way through the briar patches, can run all night and stay well ahead of the hounds"). Right after the primary, when both Gore and Hooker had been nominated, the two groups met to discuss a joint campaign, which would in effect save money and organization. The Hooker people, who were then far ahead, quietly scuttled the idea. In early October, it was clear that Gore was running strong and hard and that Hooker was stalled, and suddenly the Hooker people wanted to get together; now in the last couple of days of the campaign they *are* getting together. The problem now is not Hooker carrying Gore, but Gore carrying Hooker, and there is fear that in a close race, and this is now seen as a very close race, Hooker may pull Gore back. The Hooker people engineered their own downfall. In 1968, he had started a chicken franchise company, Minnie Pearl's, and for a time in the inflated economy looked like a financial wizard. Then, like a lot of other things this year, it collapsed. But beyond the failure of that venture, Hooker has a more subtle problem: he allowed a lot of very influential people in Tennessee, editors, television broadcasters, lawyers, judges, to have the stock when it was low, and, in his own words (Hooker never being one to hide his success in a dark room) "made thirty-eight millionaires in this state." So there is the sense that someone who four years ago ran as a new white hope was indeed manipulative politically with the stock. In contrast, his opponent, Winfield Dunn, a Memphis dentist, is able to run as Mr. Clean.

If the prosperity holds. We are driving through the new real estate subdivisions of Nashville—all new, nice, secure houses, row on row, the gleaming new post-Fifties America. Savings, hopes, fears are tied into these houses. "These are your new Republicans," George Barrett is saying. He is a labor lawyer, an old-style liberal, a gadfly between labor and the black community, and this is essentially the enemy camp. "Ten years ago they were Democrats. Not your old Southern Democrats who always used the party as a front and then switched over in general elections. These people really voted with us. Maybe they were never that much at ease in the party. Their daddies were all Democrats. But the TVA brought in some jobs and we have some prospertiy here. White collar people—gone Republican. We call them $10,000-a-year-millionaires. It's socially very respectable for young people here to call themselves Republicans—a sign of breaking from the past, of a new cultural independence. Not like up East, where when people make it, they go from being Democrats or Republicans to being *Independents*, which is socially respectable up there. Maybe if the prosperity holds we'll have some Independents down here in a few years. To be upwardly mobile down here now, you call yourself a Republican." Barrett was saying that it wasn't just economic gains which were hurting the Democrats down here, it was the sum total of frustration and fatigue with government, which tends to be blamed on the party which has been in power the most. "Sometimes I think we're simply tired of the complexities of life. So many promises have been made and there are still so many problems. Nothing seems to make it better. Take Metro," he said, referring to Metropolitan government, the decision to have a unified governmental system for Nashville and Davidson County instead of the motley of satellite cities which had existed before. "It was supposed to be a panacea for everything. Well, we have Metro and we have as many problems as before. Same tax problems, same problems of financing. Same problems of blacks and cops." I ask if it's any better. "Well, I guess the best you could say is that it hasn't deteriorated. But there was some optimism that went with it, that it would improve things, and that's gone."

Later that day I talked with Gene Graham, an old friend from the *Tennessean* who now teaches at the University of Illinois. He is back in Tennessee on a year's sabbatical to do a book on reapportionment, had dropped into the Gore office, found no one there, and has more or less taken on handling the press, producing ideas, and chiding volunteers—all without pay. We are talking about the effect of reapportionment of Tennessee (*Baker* v. *Carr* originated here) and Graham is saying that it had a profound effect. Chiefly, it led to revitalization of the Republican party. In the past, most of the state's population was in East Tennessee, but rural West Tennessee, which was underpopulated, had far greater representation. Now it has shifted, with far more equitable representation. A decade ago the Tennessee legislature was three-to-one Democratic. Now it has a Republican majority. Reapportionment gave new vitality to the Republicans, brought them to the surface, and developed confidence to run for offices they were afraid to seek in the past. The people who were getting cheated were not in the cities, the cities were a constant; given urban renewal, which had removed a certain number of people, the city representation was fairly stable. The people who were getting cheated were in the suburbs, all the new people were living there, more affluent and more powerful, and were underrepresented. They were bound to be Republican, and now with reapportionment they have their representation and new political strength. "We knew that would happen when we were fighting for reapportionment," Graham was saying. "Some of your do-good people thought—oh boy, this will help the liberals. But I knew better. I was a Democrat and I knew we were screwing the Democratic party in the short run when we pushed it, but, hell, it was the right thing to do. You had to do it."

Gilbert Merritt, Jr. has a good Nashville name, a Yale degree, and a strong decent liberalism. He seems to have all the proper credentials plus charm, intelligence, and considerable ambition, but unlike most ambitious young men, particularly lawyers, he never seemed to be in too much of a hurry. Thus it was something of a surprise to read in 1964 that at twenty-eight Gil Merritt had become a United States district attorney. He moved quickly without seeming to move at all, his liberal ideas never seemed alien in Nashville, and so it was also not surprising to return to Nashville in 1970 and find that Gil Merritt was considered the most attractive young politician in town. He had taken a very attractive wife, had been an outstanding district attorney, had taught at the Vanderbilt Urban Affairs Center, and was, in fact, considered the hot candidate for mayor of Nashville, surely a stepping-stone to greater things. A Nashville Lindsay. He was also John Hooker's brother-in-law, but the particular resentment which many young people felt toward the audacious Hooker never touched Gil. Last year, like a prizefighter training for a fight, he had begun to give speeches all over town, tuning up for the 1971 mayoralty race.

We talked about what had happened to the liberal coalition in Tennessee—here and in the country as well. It had been hit by apathy, but something stronger than that, a sense of alienation from the processes, a sense of doubt about institutions and what they could accomplish. Much of it, he said, went back to the Johnson years, and the war. But the sense of doubt which came with the war and its subsidiary effects hit the liberals much harder than the conservatives, he said, and for two reasons. First, because it was a Democratic Administration which had gotten us into the war. But second, and far more important, the liberals had always thought that you could make things move through activist government, make it work, change lives. The conservatives had always said in effect that you couldn't, that it was all hopeless, that government could really do very little. Leave man in his natural state. "Our assumptions have been knocked to hell. We who had more positive beliefs are in more trouble at a time like this; our political enemies have always believed in negative things and now find events going their way."

He had been running for mayor, he said, giving all those speeches. With a wife and three small children. "You never get to see your family, and you have to balance it off. Is it worth it? Well, I thought it was. Then I went out to Vanderbilt and was in on the urban-affairs program and the more I understood the tougher it seemed. I mean I would do it, give up the time, if I could make a difference. But the way it is, no money, you couldn't do it. Simply not enough money to do anything. You'd be standing for good things, but just spinning your wheels, promising things you couldn't deliver. Maybe you could make the police thing a little better. But on the real things someone else could do it as well as you. You might give it a little better image, but in any real substantive thing, you'd be kidding yourself and your own people. So I decided not to run."

Brock's people believe that whoever owns the issues that are being discussed in the last few days of the campaign wins the election. So they're hitting hard on prayers-in-

school. A real blitz. Full-page ads in papers all over the state. Television spots. The Gore people knew it was cooking, even knew the time on it; it is precisely the same schedule that was used against Ralph Yarborough in Texas. There is some feeling of frustration with the Senator that he did not take the initiative and predict that the smear was coming. It is all the nervousness of the last few days of the election; the Gore people were reasonably sure they had it won, the Senator himself was particularly optimistic. He still is. But there is some uncertainty now, not knowing how much the religious issue will hurt, not knowing whether the Hooker campaign, which is going poorly, will pull him down, not knowing what the national trend will be.

Colonization of the mind. One of my favorite people in the world is the Reverend Kelly Miller Smith, minister of the First Baptist (black) Church of Nashville. He was Martin Luther King's man in Nashville during the Sixties, playing a crucial role during the Nashville sit-ins, linking the young restless students with the black community, and making its demands in terms that the white community had to honor and respect. Whenever Kelly was in a room, he exuded dignity, power, and force. Ten years ago, he had lived essentially outside the white community; now he has his church but also a major job in the white community. Fifty now, he looks about thirty, like a fine NFL cornerback about to retire and go on to a movie career. He is not optimistic about the political scene. Likes Gore. He sees hope for Hooker as a man, a capacity to grow and change, which is about the best that Nashville Negroes can hope for. "You can't ask for a ready-made candidate down here." I ask him if the quality of life is any better. "A little," he says. There are a few more things blacks can do. Like eating this lunch together. The sit-ins, that was the dramatic part, the visible tip of the iceberg, he is saying. "Now I am convinced that the most important things are beneath the surface. In institutions, in schools, churches. Right here, for instance. When you set a curriculum for a theological seminary, you don't say that Negroes are inferior, you just exlude them from any consideration. They don't exist. Invisible men. Even if you look at the courses of our liberal professors, you will not find references to anything the blacks did in the churches of this country. I call it, by what it does, colonization of the mind.

"When I first came to this church nineteen years ago," he continued, "a Fisk student had painted a mural on the wall of my church, and there they were, black angels. Well, all my people saw them and died laughing—they knew that everything like that, angels and good things, were white. Now that's different, if there can be white angels, there can be black ones too. Or when I took my little boy to buy some shoes a few years ago. The store clerk was trying to be nice and he looked at my son, and said, 'Why, what *good* hair he has.' So I said what do you mean, good hair. And he said, hair like his own, which meant that it wasn't too kinky. Kinky hair was bad hair. So I told him all hair that stays in was good hair and hair which falls out was bad hair." But the problem of identity, he said, is breaking down. The impact of the radicals on the middle-class black is wider than most whites realize. Just a few days ago an older member of Kelly's church had told him, "Why, Reverend Smith, you know these bushy-haired young children are making all of us notice a few things."

He continued to talk: nonviolence has ebbed as a main weapon. "You must remember that in the Sixties nonviolence was not a philosophy of the black community. It was a technique to get something done. That's changed. I don't think the people here are more violent, I think they are a lot less nonviolent. There is less of a disposition to sit passively by." Have his own views changed very much in ten years? "I had a more limited view ten years ago, I was like everyone else, I did not see the dimensions of the problem. You go out and accomplish something, pull one strand of the problem away only to find out how much more there really is, how tough and complex it is. Ten years ago we knew something was wrong, we said we were working for integration, but what we really wanted was liberation and we didn't know it. I believed that you could convince the whites who had their feet on our necks to get off by proving ourselves with nonviolence. I still believe in nonviolence, but mostly for what it does to the individual. I believe less in its effectiveness, and I know more of its limitations."

We talk about the future of Nashville. Kelly is not particularly optimistic. The mood of the black community is more militant than people realize, the local white leadership has not been very good. "I'm very disenchanted. Things come up that are very basic and almost simple and you can't get it done. They put an interstate route right through the heart of the black community. A bitter thing which tore the community apart. Destroyed it. We didn't get much support from the whites. They wouldn't go through Belle Meade (the rich white section) with an interstate but they did it to us because we're poor and we're black."

The day. The same nervousness, people grabbing at every bit of information. Big turnout in Memphis among the blacks. Good. Big turnout in East Tennessee. Bad. Early returns: the absentee ballots from Knoxville come in and Albert has 45 per cent. Considered excellent. A harbinger? Then suddenly, quickly, too quickly really, there is no chance to think, the returns are really coming in. They are not good. The Gore people figured they would have to stay within 55,000 of Brock in East Tennessee to win, and it now looks as if the margin there will be closer to 80,000, and maybe more. The fourth Congressional district, which is in Middle Tennessee, is Gore's, but not by a large enough margin to offset the East Tennessee vote. By midevening Brock has a 5,000-vote lead as the returns come in from Middle Tennessee; it never closes.

It will be a long evening. The Gore headquarters is unique for a Tennessee politician on election night, none of the old pros, just young people and some labor people and old friends from around Carthage, many of them wearing homemade "Here I am, Albert" badges. The young people are interesting: they worked terribly hard for Gore, and very effectively. In Nashville, where a young attorney named Jim Sasser employed them well, Gore is running way ahead of predictions. What is also interesting is the fact that during the campaign Nixon came to East Tennessee State Teachers College, General Westmoreland came to the University of Tennessee for a football game, and Agnew came to Memphis, and there was not one demonstration against them; the reason being that the young really had a candidate. Brock is winning now and the national television commentators are giving the Nixon-Agnew Southern strategy credit for the victory, but I think they are wrong. The credit should go to the TVA and the prosperity it brought to the area. Tennessee is becoming a Republican state anyway. If the Republicans had run a more decent, more liberal, more honorable campaign, I think they would have won even more votes, and more important, built the basis for a strong party in the future. It seems to me now, looking around at the young people here, that this is like the Stevenson race of 1952, which set the stage for the Kennedy election of 1960. I think the same is true nationally. Nixon's gains tonight seem very slight indeed and though the pundits will point out that the President never gains in off-year elections, I think this is deceptive. The fact is that given the disrepair of the Democratic party in 1970, the breakup of the old coalitions, his failure to make greater inroads is astounding; that if he were really a smart politician he would have used this period in American life to build a new and lasting Republican party, that as he kicked away a landslide in 1968, he has failed again to take root. Nixon has allowed the Democratic party to go through the most painful stages of breakdown and reevaluation without losing its political hold.

Brock has clearly won though Gore runs well ahead of Hooker. The Memphis returns are coming in and despite an enormous black vote for Hooker and Gore, Brock is expanding his lead; it will finally be 559,000 to 513,000. Gore comes down to concede. There is more emotion, more pride in the room than in any winner's headquarters I have ever visited. His concession speech is feisty as ever—the truth, he says, will rise again. He has been a part of the system and exulted in it. Then back up to his room. He is refusing to congratulate Brock because he cannot bring himself to congratulate a man who ran the race he did. He is still muttering over the campaign. Can you imagine it, coming down here to find out not what the people wanted, what they needed, but what their fears were? A damnation. Pauline Gore almost seems relieved that it is all over. They go back to the farm on Wednesday; zinc, she says, has been found in their land. Someone tells me that zinc lobbyists heard of this and came to see Albert, wanting him to favor some prozinc tax break. He ran them out of his office. Reagan comes on television. Albert makes them turn off the set momentarily. He and Pauline are busy cheering up the young people around them. I find myself curiously at ease. Not depressed. Not sad. I had not really thought he was going to win, my heart had said yes and my mind no, but I am touched by his race, and in a curious way I feel better about this country than I have in a long time.

THE AUTO INDUSTRY AND ITS CRITICS

Mr. GRIFFIN. Mr. President, the December issue of Ward's Auto World carries an article entitled "Closing the credibility gap," which includes a series of informative interviews conducted by David C. Smith, editor of Ward's. Those interviewed were Roy D. Chapin, Jr., board chairman of American Motors Corp.; John J. Riccardo, president of Chrysler Corp.; Lee Iacocca, the new president of Ford Motor Co.; and James M. Roche, board chairman of General Motors Corp., Mr. President, I ask unanimous consent that the article by printed in the RECORD.

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

CLOSING THE CREDIBILITY GAP

(By David C. Smith)

Seldom in the history of American business has one industry come under such an intensive barrage of criticism as that which the automobile industry has experienced in recent years.

As the nation's largest industry it is also the biggest target for critics, both the informed and responsible cadre and those who have hopped on the bandwagon for their own self interests.

Hardly a facet of the industry has escaped the fusillade: Cars are unsafe, pollute the atmosphere, are sloppily built, and are costly and difficult to repair, the critics charge.

Almost overlooked are such contributing factors to safety as slipshod driver licensing,

almost non-existent car inspection and questionable highway design. Lost in the auto emissions smog are the other contributors to air pollution. Quality improvements are overshadowed by the drama of a massive defect recall campaign in which perhaps just a few defective cars are really involved. A critical shortage of mechanics and the fact that the cost of repairing practically everything has risen sharply have been obscured in the repairability flap.

These issues—plus charges of footdragging in the hiring and developing minority group personnel—have added up to an indictment that the industry has been and continues to be socially irresponsible.

Ward's Auto World published a lengthy report concerning dissent as it affects business and the auto industry in its August/September issue and urged the industry to speak out on the issues in its editorial. Now, in the interest of providing the auto companies an opportunity of stating their cases, we are devoting the following twelve pages to "Closing the Credibility Gap," a series of indepth interviews—developed entirely at our initiative—with top men at each of the four auto manufacturing companies. They are Roy D. Chapin Jr., board chairman of American Motors Corp.; John J. Riccardo, president of Chrysler Corp.; Lee A. Iacocca, president of Ford Motor Co.'s North American automotive operations; and James M. Roche, board chairman of General Motors Corp.

Our goal is to provide a balance between the concerned and sometimes colorful rhetoric of the critics and the concerned and sometimes colorful rhetoric of the men responsible for solving the industry's problems.

AMC's Chapin—"Everybody likes the idea that you can light a fire under the industry. Well, there isn't anybody that is moving any faster."

SMITH. It's become quite popular politically and otherwise to attack the auto industry. What is your reaction to this tremendous barrage of criticism over the last five years?

CHAPIN. Well I don't think that anybody either subjectively or objectively would deny that certainly some of it is warranted. And I think that you'll find most people in the industry feel that way. I think that we've in a sense asked for some of it, but it's risen to a level now that is disproportionate. It doesn't take into consideration the activities the industry is engaged in and the progress that has been made. These things are very hard to do when you get in a position of being on the defensive and where things come at you as fast as criticism has come at our industry. Hell, four years ago nobody knew what ecology was, or at least what the word meant. Obviously we as an industry are the prime targets for anything like that and we have been dealt with rather unnecessarily harshly. I think in the beginning we could have moved faster, meaning, four or five years ago. But once we got moving, I think we've made more progress than any other industry in existence in the country in our contribution to the problem of the pollution of the atmosphere.

SMITH. Is the current round of criticism really informed and responsible or do you think it is politically expedient?

CHAPIN. That's awfully hard to evaluate. I think people think they're responsible. I don't think that they're informed in many cases. I think Ralph Nader obviously does his homework very well. Unfortunately his impact is from one point of view, dramatized, but from another point of view, nullified because he tries to do something in such a dramatic fashion that he overplays one aspect of a problem. That's his way of going.

SMITH. Do you think he's been good or bad for the industry?

CHAPIN. I think he's been good from the point of view of having sort of dramatized the problem. But I think he's been bad in that he has made the problem seem too specifically nothing but the responsibility of the four automobile manufacturers.

SMITH. Are there any dangers of the widening criticism for the auto industry?

CHAPIN. Whether it's criticism or what, I think that there are going to be increased car costs to the car buyer as a result of—in some cases—some of the dubious requirements. But, after all, we built this business to the point where it is by a very simple technique. That was to satisfy the wants and the desires—I don't know whether you want to call them needs or nots—of people. Frankly, I think the biggest problem—speaking outside the industry now—is how do you sell people on mass transit? How do you get them, once they've had a little automobile of their own, to go back and stand in a bus or subway car, or whatever?

SMITH. How many changes have been directed by the government and how many by your company?

CHAPIN. A lot was stimulated as a result of pressures, partly from the government. Why don't we start with emission controls. The thing that bothers me is the concept that you can achieve emission control by legislation. There just isn't any way in the world that you can move it faster. Everybody likes the idea that you can light a fire under the industry. Well, there isn't anybody that is moving any faster. This just isn't a question of can you put more people on it, or do you stop bending the fenders a different way and put your body designers working on emission problems and that sort of stuff, because that isn't how it works.

SMITH. If you devoted more dollars to emission control, you still couldn't solve it any sooner?

CHAPIN. Yes, in my opinion. I don't know anything that we would do here any more effectively or any differently if we said tomorrow we're going to take all of our stylists and all of our body designers and all of our trim designers and put them all working on emissions.

SMITH. Why do you think it is people don't believe you when you say that?

CHAPIN. Because they don't understand the technicalities of it. Because it's exactly like saying that if we decided that facial surgery was no longer necessary we would put all of those fellows to work on heart surgery. It's two different things. It's something that takes years; it's a different kind of engineering technique. My problem is not with legislation that says by 1975 you have to reach these emission levels. My problem is the way the legislation is presently constructed. It's "that's it" and if you don't get there, boy you're finished. Well I think that's completely improper, because there isn't anybody in the world that can tell you that as of a certain date they can or cannot do what we're talking about. The fact remains that when any one of us in the industry speaks, we're automatically suspect and that's understandingable. What the hell, we're a big industry, we're a very publicly exposed industry and this is a period when nobody believes. But we're not about to panic. It's awful easy to have people who are the aggressors try to push you into a position of almost panic, but the minute we do that, progress stops.

SMITH. One of the things that comes up is that the industry has this tremendous investment in internal combustion engines and wouldn't go for another power source because of this.

CHAPIN. It isn't going to happen in six months or something like that. But with the kind of capital investments that we're all used to making this is not an insurmountable problem at all assuming that you do it on a phase-over basis. Let's assume it happened. You'd still never find that it was the perfect source of power. You'd undoubtedly start at one end or other of the line. There's really no point in speculating on something like that, because it isn't going to show up. Nobody's even gotten close enough to smell something like that. But if it gave a competitive advantage, we'd all find ways of doing it and a hell of a lot quicker than you might otherwise conceive and that's about all you can say because in the final analysis this business is built on that one factor and that is you have an extremely competitive environment and anything you can do to give you a leg-up you're damn well going to do.

SMITH. Is your electric car program ended?

CHAPIN. Well, it's not getting anywhere. We know how to build the automobile, but we haven't yet found anybody that can build a battery-source of power that will come anywhere near doing the kind of job, even a minimum job. But I think the chance of something different happening on a limited scale in the next 10 years would be damn good.

SMITH. On the '75 emission deadline. What alternatives would you ask for?

CHAPIN. Primarily a reasonable appraisal of the problem as we get close to the deadline. I guess in a sense you have to have a date but you ought to have a date not by legislation, but with some interpretation attached to it.

SMITH. On safety: The industry is still under criticism for dragging it's feet. What's American Motors doing on its own aside from legislation?

CHAPIN. In 1961 or 1962 we put a so-called dual braking system on a Rambler, the lowest priced automobile in America. And that was a substantial cost penalty in a vehicle where you're measuring your cost in fractions of pennies. My recollection was it was around $8 or $9. That's a hell of a lot of money in terms of design cost. You fight for a year to get that cost out of a car.

SMITH. Are head rests a big waste of money as some charge?

CHAPIN. There's no question that they obscure your vision. We decided not to face the cost penalty of making seat belts standard and you couldn't make people buy them. But times have changed and I'm not arguing whether there ought or ought not to be seat belts in a car. I use mine and years ago I wouldn't have thought of using a seat belt.

SMITH. Do you use a shoulder harness too?

CHAPIN. When I think of it, yes, which is very seldom. There's just so much that you'll consciously do to protect yourself and I have to admit there's a very real rationale in a passive restraining system. And I think you have to protect people against themselves. Now whether the air bag is the way to do it, I have some very real doubts. I've seen the air bag developed, I've seen it demonstrated. I've never driven a car in which the bag was activated, but I've stood right there when it happened. It was done with a convertible and I was standing right by the front door. When that thing went off, I nearly went right through the roof and this is not in the confinement of regular cars. It sounded like someone shot a 12 gauge shotgun right off in your ear. But I think whatever the technique, I still agree with the idea that you have to have some restraints—you have to try to help people protect themselves. I think for example the retractable steering column is a good idea, I think that interior paddling is a good idea.

SMITH. What other areas of safety is American Motors working on?

CHAPIN. I guess we were the first with the absolutely flush recessed exterior door handles. We've got the special Owens-Corning windshield composition in our Javelins and our AMX's which has a very high elasticity factor. It's a very effective additional passive restraint.

SMITH. Getting back to the air bag. What is your feeling about it?

CHAPLIN. It's still an area where there's much to be done. This is the thing that is

wrong with these arbitrary deadlines. There's so much to be done and every day you find out that there's something else about it that is in some cases a plus and in other cases a minus.

SMITH. Quality, warranties and serviceability . . . they're all part of the end product and the critics have abounded in their criticism of the quality of cars. What about the shrinking warranty coverage? Critics say this admits you've had quality problems.

CHAPIN. Well, I don't agree with that at all. We have developed over the past several years a quality control technique that I can tell you honestly is, as far as we're concerned, the best we have ever had. We have a separate group, called the customer quality assurance group, and their job is to monitor the cars coming off the line from a customer's point of view and they have a standardized technique in which they evaluate problems and the evaluation itself.

SMITH. What about the 12 and 12 warranty?

CHAPIN. We've worked damned hard to get warranty costs down, but not because we changed our warranty. In fact if anything it's, in some ways—from the customer's point of view—better now than it was. One of the biggest problems we all got ourselves into in warranty in the industry was the complete misunderstanding inherent in this game of let's out-warranty the other guy. It caused more ill-feeling and more unnecessary paper work and more lost motion trying to keep track of everyone of the—it winds up in the millions—of total potential problems. We now have it on a basis where it's spelled out very explicitly. Our idea is it says "here's what you are supposed to do as an owner in order to maintain your car. Here's the dealer's responsibility and here's what we're responsible for." And it's spelled out in good plain English—in plain type.

SMITH. Volkswagen still has a 24-24 warranty. Doesn't this put you at a disadvantage?

CHAPIN. We haven't seen any evidence of it. I can't find—excepting perhaps as a used car—that the 5 and 50 was really ever a selling tool except for Chrysler, which was there first.

SMITH. What about repairability?

CHAPIN. Back when we revived the Rambler-American, we decided we would put an owner's do-it-yourself manual in the glove box. And when we brought the Hornet out last year our owner's manual had all of the little stuff, you know, how to adjust your spark-plug and how to set your points and how to adjust the carburetor—although we're not allowed to do that anymore under the emissions regulations. There's also the Gremlin's plastic grille. It includes the headlights and the whole central part of the grille with the grille opening and the mesh visors in one ABS plastic piece, and there are screws that hold it on. You can put a whole new grille on the car and the retail price is $24. Now we have already made some improvements in our impact resistance of our bumpers and we'll be making more.

SMITH. What about the hot engines and the flap from the insurance indutsry?

CHAPIN. I know they were trying to protect themselves. I guess they had some astronomical costs. I can't blame them for trying to recover at least part of their costs. I'd hoped that we as an industry and they as an industry could come up with a little less vitriolic approach to the problem. Some companies handled it in a rather statesmanlike way, but others said the auto industry was going on without regard for damage or safety or injury. I'm not going to bleed about it. It's unfortunate, but I also think it's going to have an effect on the level of the horsepower ratios for some period of time.

SMITH. What is American Motors doing to improve service?

CHAPIN. The problem really is the same old story of people and I don't know what else you've had that you've tried to get fixed lately, whether your washing machine or television set or wrist watch or even a pair of shoes. Finding people who are competent workmen or who are willing to do a competent job is not easy. Fixing automobiles is a complex thing. We haven't made it any easier with all the power assists and all the other things that are now part of most automobiles. We just put out two more mobile training schools because we couldn't get dealers to send their people to our service training schools. So we now have eight which travel continuously.

SMITH. Why aren't car inspection laws passed?

CHAPIN. The biggest argument against it is the political one which says that there's too much room for pork barreling. If it's run by the state, it's just a place where you can hire your brother-in-law. If it's privately owned, then there's too much under the table. I was on the president's task force for highway safety and we had a hell of an argument about whether or not there ought to be state licensing laws. I'm not going to tell you the other people that were involved in this, but I was a minority. Every politician there didn't want it.

SMITH. What are your thoughts on driver licensing and highway design? Why are they shoved under the rug and not much is done about them?

CHAPIN. I think more stringent driver's licensing in light of today's operating conditions and the complexities of traffic problems, the complexities of the vehicles with the speeds that we travel, all the rest of it are an almost absolute must. But you keep coming back to the fact that it's awfully easy to point your finger at four fellows and say why don't you fellows fix something when you have 50 million people with driver's licenses. I just went and got a license. It's a joke, it really is. That isn't the way it ought to be. I think at some point, there's got to be much more stringent requirements. As far as highway construction is concerned, I'm a director of the Highway Users Federation and there's a lot of time and money and effort being spent in trying to direct, to educate the highway engineers, highway planners and highway departments, state by state—bringing them up to date on the modern techniques of highway construction. Look right here in the City of Detroit. You can't drive from here to Grosse Pointe without seeing somewhere between three and twelve of those ridiculous lamp posts knocked down. They've got a real big beautiful highway, put safety banks on either side and then stick a lamp post right in the middle of it. It's just preposterous. Just plain dumb. We just have a lot to learn.

SMITH. The communications gap and believability. Do you believe this is a big part of the problem?

CHAPIN. I think it's the biggest problem. I don't think it's relatively speaking as big a problem for us as it is for some of the others. As to how we accomplish the closing of this gap, I honestly don't know any way excepting every chance we get we should take advantage of it and just tell it how it is. I can't get up and make a little speech on how wonderful we are as a company. The minute you start doing that I think you widen the gap. I think you have to do it by action. By the frame of mind, the attitude that you express.

Chrysler's Riccardo—"Our concern is that the American public gets and pays for what it really ought to have."

SMITH. Let's start with safety. The main criticism is that the industry pooh-poohed safety for a long time and has gone along reluctantly with demands of the critics and of the government.

RICCARDO. I think the record speaks for itself. I think that we accomplished, and always have accomplished a great deal in this area. Go back to the beginning. We made improvements of all kinds right from the start. The steel body was a safety improvement. Improved visibility, lighting, braking, improved seating, you know, to give you more comforts and keep the driver better prepared to be alert. Certainly the most valuable things that we have in our cars today, safety wise, are the collapsible steering column and the seat belts and the windshield construction, all of which were in the cars before we had a safety regulation. But I don't know that we gain anything arguing about whether we should do more or could do more. The point is that we have a safety law under which we operate and I think that the industry and the government have a pretty good dialogue established in this area and I for one don't see any benefit to be gained by hashing over whether we should have done more—or did all we could, because I don't know what that's going to accomplish particularly. I think our job at the present time is to continue to do what's necessary to make these cars as safe as possible.

SMITH. What are you doing on your own toward developing safety features that might be competitive?

RICCARDO. We just can't take one example. We might design a car for visibility or for braking or for anything else. Those are all safety features and Chrysler has got quite an impressive list of firsts in this whole area . . . safety wheels, the first steel body, there are more than 40 of them which are all safety related items. They didn't used to be considered so because safety didn't get the special attention that it gets today, so you know what we've done kind of gets lost in the shuffle. All of these items are related to engineering. That's where they all come from and we have always done our own thing, so to speak, in designing cars that are unique. Take our torsion bars, for example. They give you better riding qualities. You only find them in two of the most expensive U.S. cars other than Chrysler cars. All Chrysler cars have them. Our uni-body construction, we think, is a very very definite safety advance. It builds the strength all around you, instead of just underneath. So I mean our whole way of life has been one after another of these types of things.

SMITH. What about the air bag? Is this an insurmountable problem?

RICCARDO. Well, no, not if you're talking a certain time frame. They're insurmountable if you're going to say "X" date when we don't know how to do it yet and the date is such when D-day comes—decision day—and we don't know how to do it, I don't know how we can say we can have it because it takes a certain amount of development time and trial time and production time and test time and all the rest. I think that the air bag is certainly very worthwhile to develop and one that we're working very hard on, but I can't tell you today when we'll be in a position to put them in the cars—so that we can mass produce them by the hundreds of thousands as we do and make them as effective as they ought to be. The problem is not whether or not they will work because we ultimately will have them. It's a matter of whether we will be ready.

SMITH. What about the other passive restraints? Are you working in that area too?

RICCARDO. Sure, in such areas as increased padding and improvement of the seat belt system itself. Things of this sort that are in the general area of passive restraints.

SMITH. Do you think this consumerism movement has actually helped sell safety?

RICCARDO. I don't know whether it has or not. We've been interested in consumerism for a long time, because as you know, the

customer has always been the guy who calls the shots. If he didn't like the product, he didn't buy it. We learned many, many years ago that the consumer was king and we've never forgotten it and his tastes change and his tastes modify and we have to modify along with him.

SMITH. Of all the contributors to accidents and highway deaths the auto has been singled out even though there are other things, like driver licensing, highway construction and inspection of vehicles. Do you think that you've been dealt with unfairly?

RICCARDO. Well, again, I don't know what we gain by saying we have or have not. Some people will say we have, others will say we have not. I don't really care either way. I don't see that really accomplishes anything. All I'm concerned about is getting a total all-around job done so that we can do everything possible to minimize deaths. Certainly we've had a lot of emphasis on the car itself and it's proper that we should have, but in addition I think we're going to need help in other areas. Certainly driver licensing is a very important area, driver training, the road system itself, drunk driving and that whole problem of what it entails, stricter licensing laws, I think they're all required.

SMITH. Why aren't they doing anything in those areas?

RICCARDO. Well I don't think I can answer that. I think you've got as good information on that as I have. I mean, why don't we do a lot of other things, you know in the way of laws passed? I'm no expert in that area. I can't tell you. All I know is that a well-rounded program is what is required and I for one would hope that we could make progress in all these areas, on all these fronts.

SMITH. People apparently just don't seem to believe that you can't either produce a clean engine or go to another power source. What are your feelings about that?

RICCARDO. Well again, I'm going to sound like a one way record here. I'm not going to dwell with you, Dave, as to the recriminations and all that sort of stuff. I'm not interested in that. I'm accepting the facts as they are and we go from there as to whether more progress should have been made or not. Someone else is going to be the judge of that. All I want to talk about is what it's going to take to get the job done and in this whole field of emission control a tremendous job has been done already. We've got all the statistics and I think the automobile industry has done more to clean up it's problems than any other industry has done. But more can be done and more remains to be done and I think that the only concern that we have is that we don't try to accomplish by legislative fiat what can't actually be accomplished by proven fact. That's our concern.

SMITH. You are on record as saying you can't meet the proposed Muskie standards?

RICCARDO. Not at the present time. There's no way we know how to meet them. Nor do I think anybody else in the industry knows how to meet them at the present time.

SMITH. What about the internal combustion engine? Again, your critics say that you will not move quite so fast toward something else because you have millions of dollars invested in the engine.

RICCARDO. We've done a lot of work in these other areas, in all these types of power plants, and it's our firm conviction that we can do a better job of cleaning up the IC engine than any of the others that are possible and avoid some of the problems that they bring in of other sorts. We see the way to do as good a job on the IC engine as we think needs to be done. See in this whole area, I think one of the things that we've never really established is the actual standards themselves. There is no proof, there is no information, there is no backing for how restrictive the standards ought to be. I don't think you can find that. It just doesn't exist. This is part of the problem. It's one thing to say you know there should be absolutely emission free engines. It's another thing to say that the health of the country demands absolutely emission free controls. There is no information that supports that today. And so our concern is that the American public gets and pays for what it really ought to have and not get and pay for what it really doesn't need.

SMITH. In other words, it's going to be pretty costly to add all this equipment if you don't really need it?

RICCARDO. Unquestionably. It's going to require exotic devices of the sort that aren't manufactured today, of the sort that we have not mass produced in quantity before so we don't completely know everything that we ought to know about them. We can make one and make it work, but our problem is to mass prdouce them and make them by the millions and my greatest concern in this whole area is that we do not overreact. I think that certainly we should provide for everything that is required to safeguard the health standards of the nation. I just wish we had more information as to what those health standards really ought to be.

SMITH. Say you made a crash program to eliminate almost all emissions by 1975. Could you do it?

RICCARDO. It isn't a matter of a crash program. It's a matter of knowing what you have to do. We don't know what you have to do to get that. If we knew what to do, we could make a crash program. The point is, we don't know how to do it. What do we crash? Our turbine is a good case in point. In 1963 it was a great pollution-free engine, but that was before they discovered some of the things in emissions. We don't today, for example, know how to solve the "nox" (nitrogen-oxides) problem in the turbine engine.

SMITH. Is the turbine a dead program, then?

RICCARDO. No, we keep developing all the time. We are currently in the process of trying to qualify a turbine engine for "nox" requirements but we're not along enough yet to know what it takes. But we're going to try because we don't know whether it would be easier or not. But we're certainly researching that particular area. But you see, that's a relatively new development and it's one that's completely turned the tables on that particular type of engine. So we still firmly believe that the IC engine is one that can be cleaned up in the best fashion.

SMITH. What is going to be the successor to the IC if there is going to be one?

RICCARDO. I wouldn't have any idea at the present time.

SMITH. You're working in all of these areas?

RICCARDO. We do research on all of these areas. We know as much about steam as anybody, and electric engines and turbines, we're the proven leaders in that area and we have developed several new engine modifications since we had those 50-car consumer turbine tests in the early '60s, and we're into at least the fifth, sixth or seventh—I'm not sure which generation—of turbine engine. So we keep improving it all the time.

SMITH. With a lot of money going into safety and emissions, do you agree that there's going to be less going into annual model changeovers?

RICCARDO. Oh, I don't think that there is any question about that. I think we're living in a whole new era as far as the building of automobiles is concerned and I would think that we're most definitely going to be looking at longer runs on these cars and less changes of the sort that we've been accustomed to having in the past.

SMITH. This has been one of the criticisms too—that the industry has sloppy workmanship. Quality is becoming more important, particularly now with imports taking such a big hunk of the market.

RICCARDO. There's been another effect in this whole area. With the emphasis that has been placed on the automobile and this whole area of safety and pollution and repairability and so forth by the various legislative committees and the news that goes on today, I think you're dealing with a much more sophisticated, knowledgeable customer than you ever had before too. I think a part of this reaction is based on increased awareness and increased knowledge on the part of the customer. This is good, because the customer ought to be as knowledgeable as he is or as he can be and we don't object to that at all. In fact, we're favorable to that. I think that's what it takes to keep a manufacturer on his toes.

SMITH. What are you doing to improve quality?

RICCARDO. We've done quite a bit in this whole area, through the years and recently. But we've had to learn to live with some other factors in this whole area which is quality which is quite a bit different to what it was four or five years ago. And this is, again, part of the adjustment that we've had to make. We've had a lot more turnover and absenteeism than we ever used to have. It's a sign of the times. It goes along with the way of life we have today. We just have a lot of new employees who don't want to come to work every day and they take a day off a week or a couple of days now and then and we have a lot of people that we hire that don't remain in our plants very long and they keep turning over so this increases our training time. As a result, our foremen and our management in our plants have had to learn how to cope with this particular problem. As I say, this is something that in just the last three or five years alone has changed tremendously and so this has just been another part of our learning processes. We've had to adapt to this particular situation and we've done a lot in the last few years on maybe increasing the amount of supervision that we have or increasing the amount of training time before a man goes into a job . . . breaking down the work content in a different manner so that it might make it somewhat easier to learn the assignment that the man has. It's just been really kind of a whole new look at the way we build these cars to make sure that we are able to cope with these particular problems because they aren't going away. If anything, they'll probably get a little worse before they get better so that you have to crank that into your system too and work around that problem . . . which we're doing.

SMITH. Do you agree the industry let stylists go rather rampant in making bumpers more something to look at than functional?

RICCARDO. I don't agree with that. I don't think that there's any question that you'll be seeing a lot of changes in this area as again, the customer is much more knowledgeable and demanding in this area of repairability. As his costs go up, it becomes actually a more important subject and so I think you will be seeing constant and continuing improvements in this area of repairability and serviceability so that we can minimize damage in collisions and one thing and another. You'll be seeing continuing evidence of this as we go along.

SMITH. What is your view as far as states passing legislation individually affecting cars? California and Florida have done that.

RICCARDO. Obviously, it makes it more difficult. The more of these states you have to conform to differently, the more difficult your job becomes. It's a little bit like the common market situation or the situation in Europe today where you're building cars for five or six different countries and they're all different.

SMITH. This whole area of social responsibility . . . things have been changing rather rapidly in the last three or four or five

years. Do you feel that as far as Chrysler in concerned that you're on target in your hiring programs and advancement of minority group employees?

RICCARDO. We're not satisfied by a long shot, but I think we like other businesses have realized that we must be more socially responsible than we've ever been before. I've said in my speeches that "just building a product, making your money and paying your taxes is not enough anymore. We must be responsive to these and other demands." And I think we're all working in that direction and I think Chrysler has made some good strides, but we're certainly not happy where we are. We've got more progress to make and we're working on it.

SMITH. Getting back to the critics. Do you think they've been good or bad for the industry?

RICCARDO. I don't try to classify them. All I'd like to do is read whatever is said and if it's something that we should be doing that we're not, take it to heart and go to work at it. I'm not in the business of trying to classify criticism as responsible or irresponsible. I'm in the business of selling cars and trucks to the public and anything that can help me sell more cars and trucks to them is what I want to do. And if the criticisms are of an area as such whereby listening to them we can do that and we can benefit the public in addition to selling more cars and trucks, I guess that's the answer. I personally don't worry much about whether they're responsible or irresponsible.

SMITH. Do you think that Chrysler has got a fair shake in terms of the press coverage of all these issues?

RICCARDO. I don't have any complaints about the press.

SMITH. Do you think you've gotten "equal time?"

RICCARDO. I make no comment one way or the other. You know, the press has a job to do and they're doing it and I have a job to do and I'm trying to do mine.

Ford's Iacocca—"I have more motivation than a Ralph Nader to do right by the consumer."

SMITH. Knocks are coming from everywhere in terms of safety, emissions, product quality and social responsibility. Is this criticism really merited?

IACOCCA. Sometimes we feel beleaguered because there's been so much in too short a span of time to really digest it all. But it's no different from any other set of problems you have in a big company. You try to put down priorities as you see them. There's a school of thought that says that a guy like me sitting here in my spot just makes money and the hell with everything. We don't operate that way. It's like life itself, you balance things out. You've just got to know what the hell's going on. The only point of frustration is that in this country it seems that if you're big and powerful and rich—and I use that not to describe myself or Ford Motor Co., by the way; I use it to describe someone who's in a position of power who makes goods, who produces jobs, who pays taxes, who makes it good, and what the hell's wrong with that? Whatever happened to the profit motive in this country? Now, right away the guy says "are you sure you're not making too much profit?" What the hell are they talking about?

SMITH. Profits have to come first?

IACOCCA. Only good healthy, profitable companies or people that pay their taxes can be socially aware. I mean if a guy's socially aware of the problem and doesn't have the wherewithal to do it, who cares a damn frankly about those kind of people—the guys who just yell and flail away and wave their arms. That's why I say I get alarmed when I see Ford Motor Co.'s profit margins dropping to the 3 percent level. But hell, I shouldn't be the only one alarmed—the whole U.S. government should be alarmed, the beneficiaries not just of taxation but of any good viable entity known as a corporation. If things start going to hell, you don't think any company operating at breakeven or loss can take the offensive in doing what are considered the socially needed things to do, do you?

SMITH. Can you give an example of what you mean?

IACOCCA. Here's a case in point: How can anybody but a healthy company decide it's time to stop fooling around with stationary pollution on say, a day like today? That plant (seen in a distance from his office) is pretty well cleaned up. Now the guy driving by here or coming here as a tourist . . . how does he know that's cleaned up? But it is virtually cleaned up.

SMITH. Are you talking about Rouge Plant?

IACOCCA. I'm talking about stationary sources of pollution. We'll spend $70 million in the next 24 months to lick it around the country. So I have a question. If you're not profitable and strong and healthy, how the hell can you spend it? By the way, that $70 million will be the most non-productive fixed capital investment we've ever spent because you dont' get any productivity or more output per man hour because we're cleaning up the stacks beyond what the law requires. You know why we can do it at Ford? Henry Ford says do it. Henry Ford says do it because we have the money to do it. And somewhere here, Dave, is this whole question of how do you start to worry about the environment? You know people want to dwell in the past and say, "Why didn't you worry about it 10 or 20 years ago?" I'll be damned if I knew what the problem was 10 or 20 years ago. I look back to the early 50's when California said "we have a problem." You ask what problem? They couldn't even identify what smog was.

SMITH. Couldn't see it?

IACOCCA. Yes, and here 20 years later they think they are now finding out what the real problem was and, guess what? Maybe it wasn't the hydrocarbons unburned that were creating the real photo-chemical smog. It may be the nitrogen oxides. There's really been a change in the last 24 months. Highly complex problems. It's O.K. for some guys to say, "where were you guys when we needed you?" Like on safety. Well, where was It? I was trying to peddle the safety bels in '56. Where was the public awareness, where was the press? Where were the do-gooders for safety? Nobody knew. And 15 years later, guess what? We got a few people using seat belts but we're still in the same old wicket. How about the drunks? How about state inspection in the State of Michigan? We're still talking about the same old chestnuts.

SMITH. Why isn't state inspection and closer licensing of drivers being pushed?

IACOCCA. Because you get to individual rights and you affect politically the individual when you say, "Hey, Dave, your car has a torn front tire." In Pennsylvania, bango, no certificate . . . you can't drive. In Michigan, more power to you. Let it blow. Take inspection. When I go to control that problem, I've got to get Dave to get a new tire. I'm talking to you as an individual. In our political system, I may be talking to you as a voter. I don't get despondent over this—I just call facts, facts. It's much easier to say, "Look, Dave won't know if we put in a tire standard that's twice what he needs, because he'll get charged $10 more for his Ford in '73." So we can sort of fog that up and that gets back to the old cliche that says "well, it's easier to get to three big auto producers than it is to 10,000 legislators in various subdivisions of the U.S. Civil rights are involved. In this country a lot of people don't know what that means; that means everybody's rights. But with the rights come the responsibilities. With the rights, by the way, come the costs. As a businessman, my role in life is to provide transportation, but to provide it at a cost that a guy can afford. And I look anybody in the eye and say "what's so money grubbing about that?" I mean I can give you an air bag, but I don't know if it will work. I can give you 10 mile-an-hour bumpers, but they'll cost a lot, too. This isn't by way of saying we haven't made a lot of mistakes because I'm as embarrassed as the next guy about the trend of style in cosmetic type bumpers. There's no defense for that.

SMITH. Why do you have "cosmetic" bumpers?

IACOCCA. Well, we styled cars frankly with bumpers that tied into the overall style of the cars. There is some fragility when you make designs. It's like a guy saying "why are you wearing that suit?" Levis wear longer. Well, I can't wear Levis to go to Ford can I? But they are more durable. You go so far and our customers themselves are saying, "Gee, what happened to my insurance premium?" We will have a five-mile an hour bumper. When you say that to the public at large they say "What are they now?" You say 2.8. "And you're going all the way to 5?" That sounds so little, you know, even the definition of the term. The insurance companies, one of them says, "we will reduce your premium 20 percent." You know what? I don't believe it.

SMITH. Why not?

IACOCCA. Well, we've got our work cut out for us and I want to get this clear with you. We will correct the bumper problem, but the property damage of all the insurance premiums in the United States, including total losses, is under the 30 percent level of the total premium. The other 70 percent—get this now—administrative costs, legal fees, and doctor fees, salesmen's commissions. That five mile an hour bumper's not going to help them. So, you can see we've got a cut of the pie to work on. Whatever we reduce, even if it's minimal, will be tied up in economics at the other end. Better known as red tape. I don't want to get into that, and I'm not arguing with the insurance companies on this. But the point I'm making is that whether you talk bumpers or emissions or airbags, each of them has a price tag on them, and in each of them people hate to talk about costs. Does anybody really stop to think of this? So that to me is what our job is.

SMITH. In other words, you have to provide what people want at a price they can pay?

IACOCCA. I don't look at this as a big game. I'm a voter. I'm a taxpayer. I, too, am a consumer. I, too, have children. I want my cars to be safe. I, too, worry about pollution. Especially my front lawn with the damned beer cans all the kids throw out of cars. Why in the hell don't they put them in returnable bottles and take them back? They're the same kids saying to me, "What the hell are you doing about pollution?"

SMITH. You're saying costs are involved in all of this?

IACOCCA. I have an obligation to give the guy who buys transportation from me his car at the lowest possible cost. We must mass produce them and do it over some tremendous hurdles and we must get quality into the car even with the problems we have in doing that and we must be responsible to doing it the way the people want it, meaning the social problems. But when it's all said and done we've got to give him his money's worth. What people are losing sight of is that somebody's got to pay for all this.

SMITH. Somebody has to foot the bill.

IACOCCA. The process is slow. That's what they are claiming about us . . . the monolithic big corporation. But when all the shouting is over, if you're a business guy, you've got to remember what the consumer is all about. What I'm saying, what it's difficult to say to our critics today is maybe,

just maybe, is it wrong for me as a businessman, who has to worry about his customers to say, "We don't have all the facts but it's conceivable as we learn more that I can give you a virtually pollution free engine for $100 as an example, rather than give you a completely pollution free engine for $500?" For me it's that simple. But the critic is going to say "The hell with that. That's his bag at Ford—he's got to work it out." I have more motivation than a Ralph Nader to do right by the consumer. I shouldn't be here if they could legitimately question my integrity in wanting to do this. I have one problem: I've got to put it together and make it work. I've got to put it into cost, which translates into prices, and I've got to tell the customer, "Man, we're really taking care of you."

SMITH. Do you think Nader's doing a lot of good?

IACOCCA. Well, there are catalysts who say "Hey, there's a problem and there's a lot of things in that area that aren't going on right," and public attention or public awareness is aroused and you move more quickly in that direction. There's nothing wrong with that, but when it goes from him to a man in government responsibility who then says "Well, not only do they have a problem, but in the interest of public health and common good, we will not only point out that problem, but we will tell them what the solution is," well that isn't even too bad, except when the guy says we will tell you how to solve it. That's when you say, isn't that carrying things too far?

SMITH. Washington doesn't consider the costs involved?

IACOCCA. We get opportunities to state our case. Just because we aren't on every front page in the U.S. doesn't mean we aren't behind the scenes trying to talk to people about what we think some of the problems are and we better, if they are problems, find out how to lick them. But I am a little offended when four auto presidents go to Washington and some of the Washington writers try to make it sound like some clandestine CIA caper, coming in by nightfall and doing something illicit. What the hell are they talking about? Whether I'm talking as a guy at Ford or a citizen, that's part of that democratic process. When all is said and done, somebody has got to stand up and be counted and, sure, I'm posing some of these problems and I don't even have solutions. I'm saying if inflation outruns productivity 100 percent, won't we be in trouble down the pike? Would it be a crime if we spent hundreds of dollars on pollution devices and we didn't get our money's worth?

SMITH. Do you still hear that same argument that you don't want to get rid of the internal combustion engine because of your vested interest? What do you say to that?

IACOCCA. Well, I say what Henry Ford said last year: We do have a vested interest if you go around and look at our engine lines. But as much as we have a vested interest because of the high capital investment in engine lines, we have a bigger vested interest that overrides that. Do you know what it is? It's on every piece of stationery that says Ford Motor Co. We are a motor company. We don't give a damn how it's powered. Our vested interest is in the Ford Motor Co. because, if you just stop to think of it, think of the motivation for us to stay in business. Do you mean to tell me we would let some guys use water to run our cars and we wouldn't be the first? Would we let General Electric come out with an electric engine and obsolete our whole company? So that's our vested interest—it's the company. So obviously we spend a lot of money to make sure that doesn't happen. It's taken 57 years to get here, but the internal combustion engine is a tough, hardy competitor. It's like aspirin for headache; aspirin is tough to beat and no one has knocked it off yet. It's that simple. You know just because we said we can't meet the '75 Muskie standards, maybe somebody could invent something that would bring us damn close. Well, we'll try, but you know when I get done talking about all of this, all I say, every day after I talk to you and after I read the letters of complaint from the people on the social issues, when I'm all done, I've got to sit down and—since our '73 cars are finished—I have to say: "What did we do, how are we doing it, and by the way how much does it cost?" Soon as I say it, a guy looks at me like I don't have my marbles.

SMITH. Things like productivity aren't of concern to the critics?

IACOCCA. There are only two ways to get productivity. Take your capital. What capital? The money you made in the last few years. Ah, profit motive, huh? I won't even have the capital to clean the stacks and do the research that tries to obsolete myself with an alternative power source. I can't get along with my stockholders showing a 3 percent return—he can beat that on municipal bonds. Now, if profits were exorbitant, a guy would come in down in Washington and say, "Let's have an excess profits tax" like they did during the war. Well, that can happen, but in this country it won't in our lifetime. So, what are you willing to pay for, is what I'm charged with. We found out there was a big segment of the population not willing to pay for complicated cars. Enter the Pinto. We hope to sell the guys who would buy foreign. There's another cliche. The guy asks "do you make as much on a Pinto as on a Continental?" I say "don't ask me silly questions—you know we don't. If we have the same volume, we make less money. But that's my problem with stockholders so don't you worry about that, huh?" I know that—I've got to get some incremental business; anyone can figure that out real quick. Here's another myth—well, they're buying small cars. Because they're safer? Oh, come on. They're buying them because they're easier to park? No. Everybody's missing the point. You know why they're buying them? Inflation. I could take a Torino tomorrow and price it at $1919 and I tell you you'd see the biggest damn gang of people in our showrooms you ever saw. They'd say "Oh, I *can* get it in my garage and parking isn't *that* important." Money. Money. That's what worries me on all of this thing.

SMITH. A lot of pressures seem to be emanating from the outside. What is Ford doing on its own to try to keep ahead of the regulators?

IACOCCA. Well, I think we're doing quite a bit. I'm not going to tell you all the details. But we bought an interest in a company for shock absorbing type bumpers. We're doing a lot of work in that area. We're trying, for example, putting S frames on cars, putting the three-point restraint system on some of our cars this year to make it easier to use. There are a whole host of things that we're trying to do. Skid-control . . . you know it's expensive. I took a chance on that, making it standard equipment on a car, Mark III, and it's worked pretty well. On a $9,000 car, you can get away with that. I'll say this to you: unilateral movement of leadership isn't likely to do much for clean air. That will happen only when *all* exhausts are cleaned-up.

SMITH. How do you respond to the charge the auto industry has been socially irresponsible?

IACOCCA. I can't speak for the industry, but I'll certainly stand by Ford's record in the area of social responsibility. Our efforts are reflected in a broad range of activities, including hiring of more than 19,000 so-called hard-core employees, efforts to provide members of minority groups with upward mobility in the company, placement of company funds in black-controlled banks, recruiting and training of more black dealers and black dealership personnel, special assistance to minority suppliers, and company aid in the establishment of minority manufacturing plants.

GM's Roche—"We've been accused of dragging our feet on safety, but we were worrying about safety a long time before some of the critics were born."

SMITH. Five years ago the safety issue began in earnest and since then the auto industry has been criticized for lack of movement on safety. What has General Motors done on its own to improve safety—beyond pressures from the government?

ROCHE. Well, I think one of the popular misconceptions that exists today is that you'd think safety had just been discovered in the last five years whereas it has been an important consideration in the design of the production of automobiles from the very beginning. Look back over the record of the industry and look at the developments that have occurred in the performance of the vehicles, the engine, the brakes, the steering and the safety glass. These are all the things that the automobile industry has brought to the present state of perfection over the years as a result of the development work. But this is all forgotten in recent years. We had such things as safety belts (a long time ago) and they are all important. If you want to avoid being injured in an accident, the best thing you can do is to wear your safety belt and the best thing you can do is to wear your shoulder harness too. Very few people wear either of them.

SMITH. Do you wear a shoulder harness?

ROCHE. No, I wear a safety belt. To wear both of them you want to be in the safest possible position. This is what people should do, but surveys indicate that there's only about 30 percent wear safety belts and probably only two or three percent wear the shoulder harnesses. Four way flashers, for example, were compulsory safety additions. They're all fine and everyone of them has its place, but the basic part of the thing is the vehicle itself and the basic strength and protection that can be built into the structure of the car. I think there has been tremendous progress that the industry has made in the United States, even though we have been accused of a lot of things. We've been accused of dragging our feet on safety, but we've been worrying about safety a long time before some of the critics were born.

SMITH. Would this progress have been made without pressures from outside?

ROCHE. I think, in most cases, it would have . . . yes. The side bars, the energy absorbing steering column, all these things.

SMITH. Why do you think the auto industry is singled out for perhaps 95 percent of the problem?

ROCHE. I think part of it has to be a political approach. There are four automotive manufacturers and 90 million drivers. We still must come to grips with compulsory maintenance, tighter driver licensing laws and the problem of the effect of alcohol on accidents; most surveys indicate that over half of the fatal accidents involve the use of alcohol somewhere along the line. Until we can have stricter driver licensing laws and until we can have vehicle inspection that will be meaningful from the standpoint of maintaining the vehicle in good driving condition, we're never going to solve this problem, regardless of what we do to the car.

SMITH. Would you say that the politicians or the government forces are unduly severe in their criticism of the industry and at the same time dragging their feet in other areas?

ROCHE. No, I think there are very practical political considerations. I don't think that anybody is deliberately being unfair; I don't mean to create that imperssion at all. But what I'm saying is that the vehicle is very tangible and the vehicle is an important

part of it. The vehicle is an easier thing to identify. When you get into talking about compulsory maintenance you're starting to spend some taxpayer's money. When you get into tougher driving laws and restrictions, you're restricting the individual's mobility. And both of these things have political aspects that have to be considered in development of programs along these lines.

SMITH. Not much seems to be done, though, does it?

ROCHE. They're beginning to rumble in this area, Dave. There's some thought being given to it, but up to now, we're almost five years into the safety legislation and over this period practically all of the attention has been focused on the vehicle and not enough on these other two areas.

SMITH. What about the air bag?

ROCHE. We're going ahead with our development work on it, but we've still got a long, long way to go. The problem with the air bag is making certain that it will be actuated when it's needed and that it won't be inadvertently actuated. You have noise problems and you have the problem of where to put it. You've got the problem of how do you test it. You have a car and you've got a new air bag in it, for example and you're fortunate and don't have an accident. Five years from now is the air bag still going to work the way it was intended? Could something go wrong with the mechanism, will the material deteriorate to the point where it won't be effective? We have all these problems to work out and nobody knows the answer to them today. You can put on a very convincing demonstration for air bags and everything works just perfectly and the thing goes off on schedule in the right place and you have a certain type of accident and it can be very effective. We still don't know how to put them in on a reliable basis. They're talking about making it impossible to start the car unless the passenger has the seat belts fastened. An electric signal of some kind. That's a requirement which I've been asked for comments on and I am in the process of getting these together.

SMITH. The chief issue confronting the industry is emissions and the implication that the industry has been dragging its feet for many years. Are you going to be able to meet the 1975 emissions standards set by the Muskie bill?

ROCHE. We can't meet the provisions of the Muskie bill; we're on record with that. Those standards are not definite yet. Whether or not they will be modified or what standards will be developed, we don't know.

SMITH. But you can meet the HEW standards?

ROCHE. We are planning to meet the HEW standards that were set for 1975. One of the problems is we're always shooting at a moving target and this becomes very difficult. If we can set these standards on a realistic basis, one which everyone could agree represented a practical approach to it, then we could direct all of our efforts to accomplishing that objective. I think we'd be much farther ahead in the long run, but here we've been operating on the basis of trying to keep up with a different standard each year and trying to meet a set of standards and doing a lot of work in this area, then having them changed again. It really hasn't contributed to the successful completion of the program and as far as the industry is concerned and as far as the dragging of our feet is concerned, I think again that that's a very unfair criticism because we've made very substantial progress starting back in 1960 which was the last uncontrolled (emissions) car of any kind, we have succeeded in the 1971 models in eliminating about 80 percent of the unburned hydrocarbons, and about two-thirds of the carbon monoxide and that's pretty substantial progress. We haven't got rid of the last 20 percent of the one and the last third of the other and it's going to take some time to do that because this is a very complicated formula. This isn't just a simple saying we know how to do it or that we don't want to do it, because frankly many of the answers that we need we still don't have. But we think we're approaching the final solutions to it and it's going to take some time to get it in. Here again, the attention is focused on the 20 percent that we haven't done instead of the 80 percent that we have.

SMITH. Another criticism is that the industry put a lot of money into styling changes instead of cleaner engines.

ROCHE. I think that's a very unfair criticism. We do put money in styling, but we have never attempted to deny that. Whether you call it body or style changes, the automobile has been steadily improving each year. The annual model change is an important discipline in the automobile industry and were it not for that discipline—and I've lived through a lot of it during my years' association with the industry—the automobile would not be in it's present state of perfection and it would not be available to the average person in the same sense as what it is today.

SMITH. With all that money going into emission controls and safety, does this indicate longer cycles in styling changes to wring the money out someplace and keep car prices reasonable?

ROCHE. That's a possibility, Dave, yes. I think it's a thing that's going to be on the side of priority. In trying to meet the emissions standards and trying to meet safety standards, whatever they may be, you're playing with a very basic design of the automobile. And these reach into the heart of the car in many different respects and they're all going to have to be factored in on some basis and this may bring about a different time schedule with respect to our important styling changes. But only time is going to tell that and these changes are sometimes going to have to be put in connection with a model change because many of these things you can't say, well we'll add it to this existing model. For example, one of the things they're talking about is moving the windshield ahead. You couldn't move a windshield ahead in a vehicle unless you changed the whole roof structure and column and whole front end of it.

SMITH. What about alternative power sources? GM just purchased the rights to the Wankel rotary engine. Would you scrap traditional internal combustion engine if you could find something better?

ROCHE. Well, if we could find a substitute for the ICE that would do the job and that would be practical from a standpoint of our being able to still produce a vehicle that a person could buy, I don't think we'd have any hesitancy in scrapping. But we don't know of any other power source. We don't think that steam is practical or workable. If we ever find a way to store electrical energy in the quantities needed to provide the operation of a car and in keeping of the needs of people, that might be a breakthrough. We continue to believe that the internal combustion engine remains the best source of power for automobiles in the foreseeable future. To meet these standards, we're going to have to make modifications to this engine, there's going to have to be devices added and we're working on them.

SMITH. Do you know why people don't believe you when you say that?

ROCHE. No, other than it's a very simple thing to say, "well they have millions of dollars invested in internal combustion engine so why would they want to change?" We change tooling quite frequently . . . when we can find a better way to do it. And we would not hesitate to change tooling for our engines if we knew we had a better one. We just don't have that and neither does anybody else.

SMITH. About the product itself—repairability, quality, warranties, bumpers and so on. GM has come under sharp criticism in these areas.

ROCHE. With respect to the repairability, I think that the increased cost of the service rates has focused a lot of attention on this, both from the standpoint of insurance companies and also as far as an individual is concerned because of the costs of the service industry. The rates per hour charged, whether it applies for automobiles or almost any other kind of service—plumber or electrician—have increased tremendously over the past 10 or 12 years, much more so than the cost of manufacturing goods—especially automobiles. So this has placed a premium on all of us to do what we can to improve the repairability of our cars . . . to simplify repair procedures. During this period when this has been developing, the automobile has become much more complex. We're trying to simplify the procedures by which servicing can be accomplished. The bumper comes in for a lot of criticism and we are trying to meet that by improving it. Here again, the bumper has become an integral part of the car, part of the sheet metal grille complex. How much it can be improved to meet some of the objectives that we hear talked about, I don't think that anybody knows now. We know that by extending the length of the bumper the way that it used to be in previous cars we can obtain some energy absorption that's not present in our present bumpers. What the compromises are going to have to be from the standpoint of overall length in the vehicle and from the standpoint of the appearance of the vehicle, we're not exactly sure at this moment.

SMITH. What about overall quality of today's cars? There have been dozens of recall campaigns because of defects.

ROCHE. I don't think quality has very much to do with recalls, really. It's caused primarily by a very few incidents of failure. And we've literally called back millions of cars because we've found an incident of failure in maybe 15 or 20 cases. We call them back not because of the quality problem on 4 million cars but because if this could happen to anyone of the others and we fix it ahead of time, we thought that was the right thing to do. This is not commonly understood in connection with these recalls.

SMITH. The argument that the imports have taken a bigger toll of the American market is because they stress more quality throughout. They say their quality is superior to some American cars.

ROCHE. Well, I think that's "puffery" on the part of the advertising for import cars because they have exactly the same problems that we have. I don't think there's any justification for that at all. I think that the quality of American cars is fully as good as foreign cars. I think that the growth of the foreign market in the United States is occasioned largely by the growth in multiple car families. The kids need a car to go to school, the wife needs a car to go to the supermarket. You can get by with a smaller less expensive car to operate. There was a void in this market in the United States which we are attempting to fill it with the Chevrolet Vega.

SMITH. What about these charges of lack of social responsibility?

ROCHE. First of all, Dave, with respect to the minority employment in General Motors: The end of last year, we had approximately 100,000 minority employees in General Motors which was relative, as I recall, to 15.6 percent of our total employment in the U.S. That represented a very substantial increase over the last four or five years. We have done a very good job in my opinion in connection with the hiring of the hard-core and we have cooperated in the National Alliance of Business and we have exceeded by far in each one of these directions. When you talk about so-

called top executives in the corporation, we do not have minority people as such represented in these top positions. We don't have any black vice-presidents for example, or Indian vice presidents or Spanish-American vice presidents, but we are building into our management group as the individuals can qualify and as the opportunities present themselves.

SMITH. Do you think there's any danger of a criticism overkill?

ROCHE. I would say that there is a danger of overkill and it comes from listening only to the criticism and listening to the suggested solution of the problems, without any regard for the other side of the story. Talk about pollution, for example. It's too easy to say, "well the automobile accounts for 50 percent of the pollution." You name your number . . . I've seen it from 85 down to 12 and these figures, usually voiced by one of the critics, are being taken as the gospel truth. And that's the headline depending on who the speaker might be. Then you're dealing with such a highly complex technical response to it. By the time the recipient of the criticism gets around to trying to answer it, you get a big thick book with a lot of statistical data in it and a lot of scientific and engineering approach to it and it just makes a lot of jargon that nobody can understand. But this is the thing that we've got to find a way to level off before we're much older if we're going to get both sides of the story told. I think we've got too much of the atmosphere that business in general doesn't want to fix some of these problems. We also have the attitude that, in too many instances, business is going to be able to pay for all of this out of their profits, and nothing could be further from the truth. The people that are going to pay for this are going to be the American public. If the government does it, we're going to pay in taxes. If we have to add a lot of things to our cars in order to meet these standards—which looks as if we're going to have to do—then the price of our cars is going to have to reflect this. These are things that aren't commonly understood. In Washington they're gradually trying to bring some of these agencies together to bring all the problems into perspective and come up with some conclusions based on logic, rather than rhetoric, and work out a program that the U.S. can live with, and that will accomplish the desired results.

THE U.S. TRAVEL SERVICE

Mr. INOUYE. Mr. President, on November 13, the following article by Paul J. C. Friedlander appeared in the New York Times.

In the article Mr. Friedlander discusses the revival of the U.S. Travel Service, to which I am pleased to have contributed, I chaired hearings on the bill which expanded the jurisdiction and activities of the USTS and on the nomination of C. Langhorne Washburn, who was recently confirmed as Assistant Secretary of Commerce for Tourism.

I am heartened by the recognition which the USTS is receiving. I am hopeful that the agency will be as successful in promoting tourism as have other governments. Not only will our balance of payments improve, but increased tourism can contribute meaningfully to a better understanding of people all over the world.

I ask unanimous consent that the article be printed in the RECORD.

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

A NEW TITLE, A REVIVED SERVICE

(By Paul J. C. Friedlander)

By recent act of Congress, C. Langhorne Washburn, director of the United States Travel Service in the Department of Commerce, was elevated to the rank of Assistant Secretary of Commerce for Tourism. He was authorized to spend up to $15-million a year for this fiscal year and the next two fiscal years ($4½-million had been authorized previously) and was given a fairly free hand to match his Federal funds with those put up by state and local tourist officials to be spent cooperatively in promoting foreign travel into the United States.

The United States Travel Service was established in 1961 when this country's balance of payments had become unbalanced and it finally became obvious to Washington that one of the best ways to adjust this economic imbalance was to increase the number and spending of foreign travelers here to match as nearly as possible the dollar spending of American tourists abroad. The service muddled along in its early years, its authority and budget limited by the refusal of some rather powerful if not otherwise prominent members of Congress to recognize the facts of international economic life.

A HOUSE OF DEADWOOD

Some taxpayers, including this one, also held the opinion that the service was boondoggling along, floundering in bureaucraft growing pains, overloaded with Government-type deadwood and not only not producing its tax-money's worth but also creating a poor public image at home and abroad that reflected the ineptitude of its early advertising and public relations program.

Its friends and supporters argued that the service needed stature to stand up to and with the near cabinet-level tourism commissioners of other countries, and enough money to begin doing creative promotion. The Travel Service also suffered from some friends and supporters, like the ubiquitous travel experts, consultants and spokesmen for carriers and other private interests who swarmed onto its official advisory committee with the stultifying effect consultants so often achieve in government.

But in the last year or so, there seems to have been a stirring within the agency, a recovery of its sense of direction. And now, at last, it has the budget it has been clamoring for and the prestige of a director whose assistant secretaryship requires him to take no protocolary back seat to anyone else's tourist commissioner at those proliferating international travel meetings. Soon the taxpayers will have an opportunity to evaluate the U.S.T.S. fairly, to determine whether it can produce efficiently, although it is always difficult to measure the efficacy of a Government tourism office.

The present prosperity in Europe and parts of Asia, in contrast to America's Recession, could easily inspire a substantial growth in foreign travel here. The flow of travelers to the United States from the United Kingdom this year rose to 310,000 and Secretary Washburn hopes for 550,000 next year.

UNFETTERED FLOW

Much credit for this increase has to go to the British Government's relaxation of its previous £50 ($120) limit on the amount of money its subjects could take out of the country on pleasure travels. The same thing happened in Japan—its flow of tourists to the Western Hemisphere leaped overnight when restrictions were eased on spending yen abroad.

However, there are some things that the U.S. Travel Service, and only the Travel Service, can do to shape the interest of foreign travelers in America and to help organize their reception and handling once inside the country. This catering to the needs of foreign travelers is highly developed in Europe, Asia, the Middle East and in parts of Africa as a major industry, but horribly amorphous and disorganized inside the United States.

The American tourist knows he can—through his airline, ship line or travel agent—arrange and even pay for a car, driver, guide, interpreter and many other services that will be awaiting his arrival almost anywhere in the world. For the foreign traveler coming here such services are difficult to arrange, terribly expensive and, in many parts of the country, just plain impossible to set up in advance.

BIG WHEELS TAKE TURNS

One of the more successful of the U.S.T.S. director's programs is the World Tourism Seminar, a series of travel promotion sales meetings sponsored by the service as the occasion warrants all around the world. For these meetings with the travel trade, Washburn has enrolled the presidents and chairmen of the boards of some of the top companies in American tourism. With permission of the Civil Aeronautics Board, airlines are allowed to carry the seminar teams overseas free, where they are paired off at tables with their competitors to confer jointly with foreign tour operators and travel agents.

Thus, the chief executives of Hertz and Avis sit together to explain to foreign wholesale travel agents the mechanics, costs and financing problems, and solutions thereto, of booking rental cars for foreign visitors to this country. Between them, they ought to be able to resolve all doubts and answer all questions, selling not their individual companies but the basic idea of renting cars here.

The chief executives of the Sheraton and Hilton hotel chains shared a joint representation at the seminar last month in Amsterdam preceding the World Travel Congress of the American Society of Travel Agents. Greyhound Lines and Gray Line Sightseeing buses were there, as were Walt Disney's tourist extravaganzas, American Express and Ask Mr. Foster and Carte Blanche, the New York City Convention and Visitors Bureau; and Nasa with Astronaut Capt. John Young and a moon rock guarded by the F.B.I. This surely was a composite picture of America functioning in a purely American buddy system of cooperation.

PILOT FOR FISCAL SHOALS

Another pet project of director Washburn is a pilot study by the Export Import Bank of Ways of extending credit to foreign tour operators to help them develop business to the States. The wholesale travel agent must book his airplane and ship space, his hotels and domestic transport, sightseeing guides and buses, and print his four-color brochures at least a full year in advance of his first tour. Carrying this expense until his package tours are sold through retail travel agents and paid for by the tourist can be an impossible burden; some kind of revolving credit system might prove helpful, Washburn hopes, and lead to a further increase in pleasure travel to this country.

Since half of this fiscal year is almost gone and more will be gone before Congress takes action, Washburn says he does not anticipate shooting for the full $15-million this year: "We intend to seek a supplemental appropriation sufficient to permit us to initiate this year the new program activity authorized under the recently enacted legislation." A good guess is less than a million dollars.

One project that takes money as well as long-range planning is the convention office in Paris whose function is to persuade international organizations to hold their future congresses in the United States. Twelve international conventions, some far in the future, have already been signed.

Another idea on the Secretary's mind is to persuade the 1976 Bicentennial Commission to make the Travel Service the official voice of invitation to this country's 200th birth-

day party. Another spoke in his wheel related to the Bicentennial proposal is revival of the relatively dormant legislation to eliminate the need for visas for tourists from countries that do not require visas of American travelers.

Still another Washburn plan is to consolidate all the tourist promotion activity of widespread government agencies into one operation, preferably the Travel Service. He notes that 26 Federal agencies now allocate funds in their budgets for some kind of tourism promotion, like the National Parks, National Forests, Tennessee Valley Authority, etc.

Consolidation of these efforts and cooperation with state and regional promotions, with Federal funds matching local contributions, will, he believes, increase such promotion abroad and make it possible to convert hitherto weak and sometime amateurish attempts into polished professional programs.

BON VOYAGE

It all sounds encouraging and hopeful and we wish the new Assistant Secretary of Commerce for Tourism well in his pursuit of a project that stands to do all of America a great deal of good economically and spread to the rest of the world the message of who and what Americans are on their home playing grounds.

There is one possible hitch in the program provided by the new act and that is the creation in Section 6 of "a commission to be known as the National Tourism Resources Commission composed of 15 members." Each of the Departments of Commerce, Interior, State and Transportation will name one commission member, the others, appointed by the President from private life, are to be people "who are informed about and concerned with the improvement, development and promotion of United States tourism resources and opportunities or who are otherwise experienced in tourism research, promotion or planning."

The commission is "to determine the domestic travel needs of the people of the United States and of visitors from abroad through 1980, the travel resources of the United States to 1980, policies and programs to meet future domestic travel needs, a recommended program of Federal assistance to states in promoting domestic travel, and, finally, to decide whether a new or existing Federal agency should "consolidate, and coordinate tourism research planning and development activities presently performed by different existing agencies of the Government."

GRIM RECOLLECTIONS

Forgiving the legalistic language, it sounds great until one recalls all the advisory groups the Travel Service has endured and, above all, the famous McKinney Report made at President Johnson's request to endorse the subsequently rejected travel tax.

That report took the concentrated work of a great many people—they called themselves task forces—and considerable Federal money. The platitudinous mice it produced in the way of naive recommendations and suggestions staggered even the phalanx of "consultants" in the travel business whose stock in trade is just such platitudes.

Can the new Assistant Secretary of Commerce for Tourism put together a commission that will really produce something constructive for the $750,000 to be spent on and by the commission? Is it possible for such a wide-open field to be guided away from official doubletalk and doublethink? The taxpayers can only hope and wait for the report to fall at the end of the two years the law gives the commission to think, ponder and pontificate.

CASES AGAINST THE SST PRODUCE LOTS OF BALONEY

Mr. GOLDWATER. Mr. President, during the current debate on the SST, there have been several times when I had to shake myself to believe that I was sitting in the U.S. Chamber listening to what is supposed to be sound debate. Never have I heard such wild assertions made as are being made about the SST and what it might do to our living conditions and the living conditions of all things on earth; never have I heard such distortions—wrong statements on what the aircraft will or will not do.

I intend to answer these allegations at some length, but in the meantime I was happy to see that a very perceptive aircraft writer in Arizona, Mr. Paul Dean, had already caught the shameful trend of the statements being made, and he has written on it, so I ask unanimous consent that his column, "Cases Against the SST Produce Lots of Baloney," be inserted at this point in my remarks.

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

CASES AGAINST THE SST PRODUCE LOTS OF BALONEY

Along with communism, cigarettes and the atom bomb, the nation's proposed supersonic transport is being billed as the rat fink for just about everything.

And that now includes skin cancer, cracked ceilings, heart attacks, bad weather, air pollution and radiation sickness.

It's entirely possible that in the coming months, the SST will be tagged as the probable cause of spastic gastritis in newborn babes, collar rings, the Roadrunners' lousy season and the Johnstown Flood.

As a relative innocent in the field of national economics and spending priorities, I hesitate to make a dollars and cents judgment for an airplane that has already cost $1 billion, is seeking another $210 million from the government and will require another $300 million to get a prototype into the air.

And I'm a staunch believer in microscopic examination of any tax-funded project, whether it be developing a supersonic transport or a superspouted teapot.

But as a barstool authority on most things aeronautical, I figure it's high time to lever bias from beliefs concerning the SST.

For openers, the thought that high-level radiation will bombard SST passengers into globs is sheer idiocy. At 65,000 feet, the altitude to be skewered by SSTs, radiation has been scientifically measured as less than in downtown Manhattan.

Military pilots have been exposed to SST speeds and altitudes for more than two decades. They remain bright-eyed and bushy-tailed.

At 1800 miles per hour, an SST will fly to London from New York in 2½ hours. A Boeing 707 makes the same trip in almost 7 hours. Which means today's 707 passengers are actually exposed to more high-altitude radiation than they would be aboard the SST.

There's no denying that the SST will produce sonic booms. But public worries about the boom factor are predicted entirely by public experiences with the sonic sounds of military jets.

Once more, measurements have shown that a diving, twisting, tactically maneuvering military jet punches out a boom of between 10 and 15 pounds per square foot (psf). Dynamite on ears and windows. Tests on the Anglo-French Concorde SST, which has already popped the double sound barrier, show that in level flight at cruise altitude, the Concorde barely snickers with a maximum 2.2 psf factor.

That, noted aerospace writer Harvey Ardman in his recent thesis on "The Case for the Supersonic Transport" is the equivalent of the psf shock "that hits the ears of a Volkswagen driver when he swings his car door shut."

And remember, the government has already proposed, and airlines have accepted, that SST flights over the continental United States will be restricted to subsonic speeds.

Despite expert testimony from the National Research Council of the National Academy of Sciences and the Office of Meteorological Research, thousands of misinformed amateurs continue to believe that SST flights will destroy the earth's ozone shield (allowing cancer-causing ultra violet rays to burst through) and produce moisture-stuffed vapor trails culminating in a permanent cloud cover over the globe.

Yet the military has been hard-pressed to produce supersonic vapor trails at SST altitudes. Weathermen have proved that one severe thunderstorm can dump as much water in the stratosphere as 400 SSTs flying four transoceanic flights. And there have been up to 6,000 thunderstorms logged each day since the year dot.

There is also no proof that water vapors will erase the earth's ozone layer. Weathermen have once more said that "there will be no appreciable disturbance of the earth's normal atmospheric balance by a fleet of SSTs making 1,600 flights a day."

Let expert Ardman sum it up again:

"These objections are of this sort. Arsenic is poison. There is arsenic in sea water. So sea water will give you arsenic poisoning. It will not. Because the volume of water you'd have to drink would kill you first."

Many of the anti-SST arguments are carbon copies of the naivete of years past; public expressions which once claimed the human lungs could not pump against automobile speeds of 60 mph and all airplanes would disintegrate when they hit the sound barrier.

Worthy of more specific note is an editorial that appeared in the New York Times in 1903 when Prof. Langley's Flying Machine had crashed in the Potomac.

The Times called his attempt a "ridiculous fiasco" and that it would take "from one million to ten million years" to build a machine that could fly. Providing science could eliminate "the existing relation between weight and strength in inorganic materials."

Fortunately, neither the Times nor the world had to wait for ten million years. Three months later the Wright Brothers teetered into the air at Kitty Hawk.

CIGARETTE ADVERTISING

Mr. MOSS. Mr. President, in a very few days now, one of the most significant acts of this 91st Congress will take effect: Cigarette advertising will vanish from all broadcast media.

But this event—dramatic and unprecedented as it may be—represents but a single episode in the war against death and disease caused by cigarette smoke. And, as we contemplate the end of broadcast cigarette advertising, it is timely to remind ourselves that hundreds and thousands of Americans are still dying each year from lung cancer and heart disease directly attributable to cigarette smoking; that millions of Americans are still debilitated by the diseases directly caused by cigarette smoking; and that millions of young people are still becom-

ing habituated to cigarette smoking, heedless of the verdict of the scientific and medical communities.

And we must face yet another deeply disturbing fact: Members of the cigarette industry, despite their acceptance of the public verdict that the promotion of cigarettes on broadcast media was not in the public interest, show no signs of slackening their quest for new consumers through every conceivable promotional and marketing technique, which the genius of Madison Avenue can conjure up.

Mr. President, let's look at the evidence of unconscionable hucksterism running amuck within the cigarette industry:

Item—Advertising Age reports that cigarette billboard advertising will escalate from the present less than $10 million level to $40 million—polluting the landscape in the interest of polluted lungs.

At the time we debated the cigarette act on the Senate floor, the distinguished ranking minority member of the Commerce Committee (Mr. COTTON) agreed with me that a doubling or trebling of the number of billboards advertising cigarettes would constitute a "gross abuse."

Item—Sample cigarettes are blanketing the mails addressed to occupant.

Item—Preparations are underway to subvert the manifest intent of Congress in banishing cigarettes from broadcast media through such devices as the sponsorship of bowling tournaments, auto races, tennis tournaments, and so forth, naming tournaments by cigarette brand names, pasting huge brand names on the sides of racing cars and on billboards along the track, plastering stadiums with brand promotion placards. You can visualize the smirk on the ad manager's face as he turns to his colleagues and says: "Who could possibly object to Reynolds underwriting the 'Winston-Salem' Classic."

Item—Chairman MAGNUSON brought to the Federal Trade Commission's attention the apparent scheme by which the American Tobacco Co. was planning to market Pall Mall and Silver Thin pipe tobaccos in a package virtually identical in design and color with their namesake cigarette packs, putting those packages on television in a not very subtle indirect promotion of the cigarettes.

Item—The Cigarette Advertising Code, the industry's much heralded effort at self-regulation, has expired unlamented by those who felt that its impact on advertising abuses was minimal; but its demise serves warning that uncontrolled anarchy may be forthcoming in cigarette advertising practices without Government action.

Warren Braren, perhaps the Nation's leading analyst of cigarette advertising abuses, the former director of New York office of the Broadcasters Code of Self-Regulation, has documented for the Federal Trade Commission a series of deeply disturbing cigarette advertising themes and techniques presently emerging. These include:

First. Print advertising expenditures possibly reaching $150 million.

Second. Industry abandonment of the weak Cigarette Advertising Code.

Third. Representations implying health benefits which were once prohibited by the now abandoned code.

Fourth. Public concern over pollution being used as a marketing tool for cigarettes.

Fifth. Promotional tie-ins with clothing manufacturers.

Sixth. Pictorial representations on packages diluting the health warnings.

Mr. President, there is but one agency which has the power and the responsibility to police these grotesque abuses of our marketplace. Although the Federal Trade Commission is restrained until July of next year by the legislation which we enacted this year from issuing a trade regulation rule requiring warnings in advertising, it is otherwise free to move against any and all advertising practices for cigarettes as for other products which are either unfair or deceptive within the broad limits of those terms as they have evolved. Not only is the FTC free to do so, but it must do so.

The Federal Trade Commission must act now, before the January 1 termination of broadcast advertising unleaches an orgy of unbounded cigarette promotion in nonbroadcast media. The Commission must serve notice on the cigarette industry and the broadcast industry to whom the law also applies that it has every intention of prosecuting, with all of the regulatory weapons at its command, abuses of the public interest such as I have cataloged. And the Commission must follow that statement of policy with appropriate action.

Mr. President, let me add only one more observation. As chairman of the Senate Consumer Subcommittee, I want Chairman Kirkpatrick and his fellow commissioners to know that I will stand behind any such action by the FTC. It is my judgment that there will be widespread support in Congress for such action, that the Commission need not fear today, as perhaps it had reason to fear in the past, the political power of either the cigarette industry or print media anxious to profit from the "ill fortune" of the broadcast media. In my judgment Congress will no longer tolerate the unrestrained promotion of a product which is both lethal and insidious.

THE 100TH ANNIVERSARY OF THE BEET SUGAR INDUSTRY

Mr. BENNETT. Mr. President, it is my privilege to call the attention of my colleague to a significant milestone reached by a great and important industry in this country.

I refer to the fact that on November 17, the U.S. beet sugar industry celebrated the 100th anniversary of its first commercial success in this country.

From an extremely modest beginning in California a century ago, the American beet sugar industry has progressed to become the largest single source of sugar for this Nation's consumers. Today there are 59 modern beet sugar manufacturing plants located in 19 States. During the industry's centennial year these facilities produced more than 3¼ million tons of refined sugar for the country's households and for our vital food processing industry. In 1970, tens of thousands of farmers in more than a score of States harvested upwards of 29 million tons of sugar beets necessary to achieve this marvelous production record.

Perhaps little note of this centennial has been taken in areas geographically removed from the centers of sugar beet farming or beet sugar manufacturing. However, in those parts of our country where sugar beets are an important cash crop and where the beet sugar industry is a way of life and valued for its positive contributions to the culture as well as to the economy, the citizens have chosen to honor the industry on the occasion of its 100th birthday.

Thus, it was that over the past few months the States of California, Michigan, Wyoming, Texas, Washington, Idaho, and my State of Utah, have taken official note of this auspicious anniversary.

I ask unanimous consent that these formal declarations emanating from the heartland of the beet sugar industry be printed in the RECORD.

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

STATE OF UTAH, OFFICE OF THE GOVERNOR—DECLARATION

Whereas, November 17, 1970, marks the 100th anniversary of the beet sugar industry in the United States; and

Whereas, from a modest beginning 100 years ago the United States beet sugar industry has become the largest single source of sugar for America's households and for the country's vital food processing industry, providing consumers with sugar at reasonable prices produced from sugar beets grown on family farms in 29 states and processed in sugar factories in 19 states; and

Whereas, the beet sugar industry in the State of Utah provides economic opportunity for many farmers and farm workers on sugar beet farms, and for many workers employed in processing facilites operated by Amalgamated Sugar Company and Utah-Idaho Sugar Company; and

Whereas, subsequent economic benefits accrue to the entire state and to the nation through the purchase of raw materials and goods and services both for sugar beet farming and for beet sugar processing; and

Whereas, the significant tax revenues generated by the beet sugar industry help provide for the general welfare of all citizens in the state:

Now, therefore, I, Calvin L. Rampton, Governor of the State of Utah, do hereby declare Tuesday, November 17, 1970, as Beet Sugar Day in the State, and the industry is commended for its contributions to the general good, and wishes are extended for continued progress during the coming 100 years.

CALVIN L. RAMPTON,
Governor.

Resolution by the Assembly Rules Committee—California Legislature

Relative to commending the beet sugar industry

Whereas, 1970 marks the 100th anniversary of the beet sugar industry in the United States; and

Whereas, Alvarado, California, was the site of the nation's first commercially successful beet sugar processing facility; and

Whereas, From its modest beginning 100 years ago, the United States beet sugar in-

dustry has become the largest single source of sugar for America's households and for the country's vital food processing industry; and

Whereas, The beet sugar industry provides consumers with sugar at reasonable prices, which is produced from sugar beets grown by more than 3,000 members of the California Beet Growers Association in 31 counties, as well as growers in 28 other states, and the beets are processed in sugar factories in 19 states; and

Whereas, California is the nation's leading producer of sugar beets and beet sugar, providing economic opportunity for thousands of growers and farm workers on sugar beet farms and for thousands of workers employed in processing facilities operated by American Crystal Sugar Company, Holly Sugar Corporation, Spreckels Sugar Company, and Union Sugar Division, Consolidated Foods Corporation; and

Whereas, Subsequent economic benefits accrue to the entire State of California, and to the nation, through the purchase of raw materials, goods and services for both sugar beet farming and beet sugar processing; and

Whereas, The significant tax revenues generated by the beet sugar industry help provide for the general welfare of all citizens in the state; now, therefore, be it

Resolved by the Assembly Rules Committee, That the Members recognize the significant contributions that the beet sugar industry has made within the state and throughout the nation, applaud the efforts of those associated with the enterprise during its 100 year history, and wish the industry continued success and progress during the coming 100 years; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to each of the following: the California Beet Growers Association, the American Crystal Sugar Company, the Holly Sugar Corporation, the Spreckels Sugar Company, and the Union Sugar Division, Consolidated Foods Corporation.

Resolution No. 648 approved by the Assembly Rules Committee.

A CONCURRENT RESOLUTION FOR THE CENTENNIAL OF THE BEET SUGAR INDUSTRY

Whereas, The beet sugar industry of the United States celebrates its Centennial in 1970 and its hundred years' growth from modest beginnings to the present greatest single source of sugar for American households and the vital food processing industry; and

Whereas, The family farms of 29 states produce sugarbeets, factories of 19 states process the sugar, and millions of consumers are provided their daily superior product at reasonable prices; and

Whereas, In Michigan, the 1969–1970 sugar production of the five factories operated by the Michigan and the Monitor Sugar Companies was 340,500,000 pounds from 1,431,339 tons of sugarbeets harvested from nearly 88,000 acres of farms in the greater Saginaw Valley area. Two principal byproducts of extraction in 1969 yielded 78,633 tons of dried beet pulp and 68,642 tons of molasses. The total gross income for the Michigan sugarbeet growers and processors approximates 42.9 millions of dollars; and

Whereas, With a combined annual payroll of nearly $6,500,000 and their $600,000 yearly taxes, the Michigan and the Monitor Sugar Companies contribute significantly to Michigan economy. Further, their purchase of huge quantities of raw materials, including coal, natural gas, chemicals, packaging items and their extensive use of the State's transport facilities stimulate directly much related commerce, as do their large scale plant renovations and expansion for contractors and suppliers throughout Michigan; now therefore be it

Resolved by the House of Representatives (the Senate concurring), That by these presents the Centennial of the Beet Sugar Industry is recognized and Michigan's farmers and her producers, the Michigan Sugar Company and the Monitor Sugar Company, are accorded tribute and felicitations for their continuing success which is to say, the State's and her citizens' progress; and be it further

Resolved, That copies of this centennial tribute be presented to the Michigan Sugar Company, the Monitor Sugar Company and to the Farmers and Manufacturers Beet Sugar Association, in testimony of the esteem of The Michigan Legislature.

Adopted by the House May 28, 1970.

Adopted by the Senate June 11, 1970.

PROCLAMATION BY THE GOVERNOR OF WYOMING

Whereas, 1970 marks the 100th anniversary of the beet sugar industry in the United States; and

Whereas, from its modest beginning, the U.S. beet sugar industry has become the largest single source of sugar for America's households and for the nation's vital food processing industry; and

Whereas, the beet sugar industry in the State of Wyoming provides economic opportunity for hundreds of growers and farm workers on sugar beet farms, and for hundreds of workers employed in processing facilities operated by Holly Sugar Corporation and The Great Western Sugar Company; and

Whereas, subsequent economic benefits accrue to the entire State of Wyoming and to the nation through the purchase of raw materials and goods and services for both sugar beet farming and beet sugar processing; and

Whereas, the significant tax revenues generated by the beet sugar industry help provide for the general welfare of all citizens in the state; and

Whereas, the 1970 beet sugar harvest has recently been completed and has brought forth another bountiful crop;

Now, therefore, I, Stanley K. Hathaway, Governor of the State of Wyoming, do hereby congratulate those involved in the beet sugar industry in Wyoming, and urge the citizens of the state to give proper recognition to this 100th anniversary observance.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Wyoming to be affixed this 23rd day of November 1970.

STANLEY K. HATHAWAY,
Governor.

STATE OF IDAHO PROCLAMATION

Whereas, 1970 marks the 100th anniversary of the beet sugar industry in the United States; and

Whereas, From its modest beginning 100 years ago, the U.S. beet sugar industry has become the largest single source of sugar for America's households, and for the country's vital food processing industry, providing consumers with sugar at reasonable prices produced from sugarbeets grown on family farms in 29 States and processed in sugar factories in 19 States; and

Whereas, The beet sugar industry in the State of Idaho provides economic opportunity for thousands of growers and farm workers on sugarbeet farms, and for thousands of workers employed in processing facilities operated by The Amalgamated Sugar Company and the Utah-Idaho Sugar Company; and

Whereas, Subsequent economic benefits accrue to the entire State of Idaho and to the nation through the purchase of raw materials and goods and services for both sugarbeet farming and beet sugar processing; and

Whereas, The significant tax revenues generated by the beet sugar industry help provide for the general welfare of all citizens in the State;

Now, therefore, I, Don Samuelson, Governor of the State of Idaho, do hereby proclaim the week of November 23, 1970, as Beet Sugar Week in Idaho and do further applaud the efforts of those associated with the enterprise during its 100-year history and wish to the industry continued success and progress during the coming 100 years.

DON SAMUELSON,
Governor of the State of Idaho.

STATE OF WASHINGTON, OFFICE OF THE GOVERNOR

November 17, 1970, marks the 100th anniversary of the beet sugar industry in the United States.

From a modest beginning 100 years ago the United States beet sugar industry has become the largest single source of sugar for America's households and for the countrys' vital food processing industry, providing customers with sugar at reasonable prices produced from sugar beets grown on family farms in 29 states and processed in sugar factories in 19 states.

The beet sugar industry in the State of Washington provides economic opportunity for many farmers and farm workers on sugar beet farms, and for many workers employed in processing facilities operated by U and I Sugar Company.

Subsequent economic benefits accrue to the entire State and to the nation through the purchase of raw materials and goods and services both for sugar beet farming and beet sugar processing.

The tax revenues generated by the expanding beet sugar industry help provide for the general welfare of all citizens in the State.

Now, therefore, I, Daniel J. Evans, Governor of the State of Washington, shall designate Beet Sugar Day in Washington, commend the industry for its contributions to the general good, and extend best wishes for continued progress during the coming 100 years.

DANIEL J. EVANS, *Governor.*

OFFICIAL MEMORANDUM BY PRESTON SMITH, GOVERNOR OF TEXAS

GREETINGS: 1970 marks the 100th anniversary of the beet sugar industry in the United States.

From its modest beginning 100 years ago, the U.S. beet sugar industry has become the largest single source of sugar for America's households and for the nation's vital food processing industry, providing consumers with sugar at reasonable prices produced from sugarbeets grown on family farms in 29 states and processed in sugar factories in 19 states.

The beet sugar industry in the State of Texas provides economic opportunity for hundreds of growers and farm workers on sugarbeet farms, and for hundreds of workers employed in processing facilities.

Subsequent economic benefits accrue to the entire State of Texas and to the nation through the purchase of raw materials and goods and services for both sugarbeet farming and beet sugar processing, and significant tax revenues are generated by the beet sugar industry.

Therefore, I, as Governor of Texas, do hereby call to the attention of all citizens the significant contributions that the beet sugar industry has made within the State and throughout the nation, and extend best wishes for the continued success and progress of the industry.

In official recognition whereof, I hereby affix my signature this 13th day of April, 1970.

PRESTON SMITH,
Governor of Texas.

VICE PRESIDENT'S REMARKS AT CONGRESSMAN AYRES' TESTIMONIAL DINNER

Mr. SAXBE. Mr. President, I read with interest this morning the speech that was delivered by the Vice President last night. He was appearing in Akron, Ohio, to honor Congressman BILL AYRES who was defeated for reelection after serving 10 terms in Congress.

We can all join in his words of commendation for our good friend BILL AYRES, who has served his district well and has gained the admiration and respect of members of both parties here in Washington.

The Vice President then went on to say that division is a necessary part of elections in this country and afterwards in the best American tradition we bind up the wounds and proceed to the business of the country. So be it.

What needs further to be said is that there must be a mutual effort to close ranks both within and without the party. Angry rhetoric can be forgiven and forgotten, and should be if made in the heat of a campaign. Overstatement has rightly or wrongly been a part of American politics. We learn to live with it and most participants are willing to let time heal the inflammation that results.

Unfortunately, in the last election some proceeded from overstatement to threats and from threats to the questioning of loyalty and patriotism of other candidates and noncandidate officials. This has always been repugnant to men of good will and patriots who zealously guard our hard-won and fragile independence and liberty—repugnant because many of us know through our daily mail that there is no shortage of bigots who in their misguided patriotism readily proffer lists of persons they consider traitors and who, they urge, should be behind bars that they could not interfere, as they say, with the good and true men of our country.

The people who make these demands need no encouragement; threats, however veiled, by persons of substance and position are seen as a green light by such zealots. I am sure that the Vice President had no intention of unleashing such sentiments in others less erudite and informed. But the result regardless of intention is what we must ponder.

We all admire President Nixon for his coolness and restraint. I truly feel he desires to bring us together. His appointees daily reflect this concern in their dealings with Congress.

It is good that we make reappraisals, however agonizing, of our part in contributing to victory or defeat in our continuing contests. But it is also good that we profit by our experience and resolve to do better.

As we end this session of Congress it is a particularly timely occasion for such resolve. We have made mistakes, we have sinned grievously, but we have also won some battles and by good offices occasionally been peacemaker, the best role of all.

I read into the Vice President's remarks a touch of the olive. If this is so then we should all take heart; look to our own households, recall that this country's welfare eclipses all pettiness and constantly calls us to observe that the main thrust for all segments of our society is to preserve liberty, to respect properly constituted authority and to carry on the business of the country with dignity and purpose.

I ask that the Vice President's speech be printed in the RECORD and I hope that others of my colleagues find there what I do and that we go into the new Congress free of partisan and personal rancor, willing to learn from the past but not be its captive. Not certainly abandoning our privilege to partisan views and statements but with a resolve that such activities are only an incidental part of our primary obligation to our country.

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

CONGRESSMAN AYRES' TESTIMONIAL DINNER, AKRON, OHIO, DECEMBER 17, 1970

It is a pleasure to be with you tonight to pay tribute to one of the finest among the many fine Congressional leaders I have known—Bill Ayres.

Bill has always been a fighter. It came as no surprise to me to learn that he is the only Republican officeholder in modern times ever to win re-election in Summit County. The fact that he served ten straight terms in Congress is eloquent testimony to the representation he gave the City of Akron and Summit County. The absence of Bill Ayres from the next Congress will be a loss to the nation, as well as to Ohio.

Ohioans will never forget Bill Ayres' leadership in the neglected field of vocational education, an interest which your great Governor, Jim Rhodes and I share. Nationally, hundreds of thousands of ex-servicemen are indebted to Bill as the author of the Cold War GI Bill of Rights which has enabled them to continue their training and education.

Bill also has an identity with the youth of this area. They tell me that years ago, when he was running for re-election, he gave his children T-shirts that had "Bill Ayres is my Daddy" painted on the front. But when his children went to school with those T-shirts on, the other kids wanted one, too. Pretty soon there were hundreds of kids in Akron wearing shirts that said, "Bill Ayres is my Daddy." I'm not sure how Mrs. Ayres felt about that one, but it was great for the Republican party. Sort of made Bill Ayres the Father of Akron.

I realize that this dinner is primarily to honor Bill Ayres and his service in the Congress, but there is another prominent Republican from Akron that I would like to recognize. I'm talking about Ray Bliss, one of the greatest chairmen that the National Republican party has ever had.

It's because of Ray that the national party was able to make such a strong showing in the 1968 elections—and for that President Nixon and I are grateful.

We salute the City of Akron for giving us both of these outstanding Republicans—Ray Bliss and Bill Ayres.

Tonight I would like to discuss with you a topic that I believe pertinent, now that the elections are over.

Many qualities have made this country great. I would like to focus on two that concern the politician particularly: first, the willingness to fight hard, and, second, the commitment to unity, the readiness to fall in behind the winner, when the battle is over. It boils down to positive division before an election, and a realistic reuniting after the election. Some may consider these two incompatible—I do not.

As you know, this Administration went on the offensive this fall and fought aggressively for Republican candidates. For doing so we were labeled "divisive." We were raked over the coals by some of the leading politicians and commentators for attacking our opponents. Somehow, it was forgotten that in 1964 the Democrats had run an ad on television, that showed a little girl pulling petals off a flower, and then an H-Bomb going off behind her. Somehow, it was forgotten that in 1964 a number of prominent American politicians and opinion leaders, called the Republican Party's nominee for President the closest thing to Hitler this country had yet seen. Also, it was forgotten that not too many months ago one of the most prominent members of the United States Senate likened me to Joseph Goebbels and a senate candidate of the other party referred to me as the "Baltimore Greek who should be put back on the leash."

But never mind—never mind the fact that these attacks seem to have been forgotten. What I am interested in is in the implication that the harsh thrust of partisan debate suddenly in 1970 no longer has a place in American politics.

I disagree. Division can be constructive. I believe that what is called the adversary system in our legal profession also has a place in other areas of our society. I say this as one who was trained in the law, who for many years practiced the law and taught the law.

Consider for a minute what the adversary system accomplishes. Both prosecution and defense fight vigorously for victory. They seek our facts and witnesses that support their client's cause and hurt their opponent's cause—then they marshal their arguments with but a single thought in mind: to win. For victory they strain every nerve, and no one can deny their right to do so. Indeed, it is their duty.

To some this may seem far removed from justice. But remember: there are several advocates, one for each competing position. And the decision is not handed down by them: it is handed down by the judge, or by the jury.

Judge and jury depend upon the advocates for a knowledge of the facts and weigh their credibility. For it is the assumption of the adversary system that only an advocate who thirsts for victory will possess the requisite intensity of spirit and of intellect to ferret out the pertinent details, no matter how minute, and to construct from them the most persuasive arguments. And it is the further assumption of this system that when committed advocates present opposing sides of any issue, all the necessary facts and arguments will be brought before the judge and jury for consideration. Thus the decision will be based on complete enlightenment and information that has borne the test of hostile investigation.

Such is the role of the adversary system in the law courts. It is also the role of tough political partisanship in the public forum. It is a constructive role. It brings to the attention of the public all the facts and all the arguments. And both sides know that the public will judge between them on the basis of what they have brought into open confrontation.

This partisanship must be pursued zealously, vigorously, without hesitation.

But, by the same token, the verdict of the public must also be accepted without hesitation: even as the lawyers in a trial accept the verdict of the judge and jury. Win or lose, the litigants counsel remain committed to our system of justice, and they prepare themselves for the next trial, where justice will again be determined on the basis of hard partisan debate.

So also in politics, both within a party and within the nation. Once the primary or the election is past, the winner has the right to expect the reasonable support of the losing side, and the loser has the duty to pledge

that support. I say this in full knowledge that seldom in a democratic election does the winner win with much more than 50% of the vote. In other words, almost one-half of the electorate is expected, after every election, to give their support to someone they did not want. And in not a few elections under the American system, a *majority* of the voters are asked to support a man that they opposed.

In the State of New York, for example, within the past four years, the Governor, the Mayor of New York City and a United States Senator have been elected with less than 50 per cent of the vote.

On the national level, Abraham Lincoln, Woodrow Wilson, John F. Kennedy and Richard Nixon were all elected President with less than a majority of the vote.

Yet in all of these victories, and in many others in our history, the men who were elected did not hesitate to assume the powers and responsibilities of office because they knew that under our system they had a mandate to govern and could expect the loyalty of the great majority of American citizens.

If this thought of acquiescence by the people in properly implemented governmental decisions appears to obviate the right of dissent, let me emphatically reject that premise. Certainly there should be full freedom to lawfully disagree with the decisions of public officials and to demonstrate dissent in accordance with our constitutional prerogatives. But attempts to dissuade duly constituted authority from a chosen course of action should not cross the line to disruption and other illegal procedures. They should be proper and constructive. They should not be carried on for the purpose of harrassment, but for the purpose of enlightenment and the focus of attention on a point of view. Public officials once elected deserve the opportunity to carry out their mandates without willful obstruction at every turn.

It is exactly the same within a party. Conventions and primary contests for a nomination often can be extremely bitter. But after the battle, a party's ranks should close. I believe the Democrats have traditionally understood this lesson better than we.

Party unity is essential to party strength. I say this not only with an eye to the health of the Republican Party, but also to the welfare of the nation. A strong, two-party system is vital to democracy in this country. A loyal opposition puts pressure on the incumbent and forces him to be alert, cautious and honest. But in order to provide this service to the nation, the opposition must be strong, it must be able to offer an alternative at every step of the way; at national, state, county and municipal elections, everywhere throughout the land. A fragmented party cannot be strong. Strength requires party loyalty and party discipline.

That is why this Administration welcomes the new Senator from New York, even though he was elected not as a Republican, which he happens to be, but as a Conservative. He has given every indication that he will be a loyal Republican and I would hope that he will be accepted into the Republican Senate caucus, not for his ideology, but for his loyalty.

And in another sense, that is why I have come to Akron tonight: to indicate to you and to Bill Ayres that, win or lose, I remain loyal to this man who served so long and so well his party, his constituents, and his country. He has been true to his principles and to the interests of the residents of this district. He has upheld steadfastly and continuously the American system which for 20 years enabled him to represent you in the Congress. I have no doubt he will continue to uphold that system and will be entirely constructive in his attitude toward the man he fought so hard to beat. This is as it should be. We must not hesitate to fight for the things that we believe in. And when we fight, let us be tough. But when the fight is over, let us put aside the battle gear and join together for a better nation.

MR. SAMUEL PISAR ON EAST-WEST TRADE

Mr. KENNEDY. Mr. President, last week, the Subcommittee on Foreign Economic Policy of the Joint Economic Committee received important new testimony in its continuing series of hearings on East-West economic relations.

One of the witnesses who appeared before the subcommittee was Mr. Samuel Pisar, one of the most distinguished authorities on East-West trade. Mr. Pisar is best known for his recently published book, "Coexistence and Commerce," an excellent current analysis of the philosophy and practice of East-West trade.

In his testimony before the subcommittee last week, Mr. Pisar dramatically demonstrated the declining role of the United States in East-West trade, as the major industrial nations of Western Europe begin to expand their own role in this sphere.

Mr. Pisar spoke clearly of the challenges we face in this important area and the pitfalls we must avoid. I believe that his testimony will be of interest to all of us in Congress concerned with this problem, and I ask unanimous consent that it may be printed at this point in the RECORD.

COEXISTENCE AND COMMERCE: PRACTICING THE AMERICAN ETHIC

(Testimony of Samuel Pisar, Joint Economic Committee, Subcommittee on Foreign Economic Policy, Hearings on East-West Economic Relations)

Presumably it is to the recent publication of my book, here and abroad, that I owe the privilege of appearing before this Committee. Yet, what I have to say derives primarily not from academic research but practical experience as a counsellor to multinational corporations and banks in this country and in Western Europe. Assuming you want my views on what U.S. economic policy toward the East should be, I will point out newly arisen opportunities for a change of course and offer some specific proposals.

Twenty years after World War II it has become clear that the Soviet Union's effort to build a cohesive, separate and self-sufficient communist commonwealth has failed. It has failed because the political interests of an industrialized Russian giant and the national aspirations of the smaller Eastern European countries cannot be reconciled. It has failed in a larger sense because the economic system of state socialism has proven too rigid to meet the needs of the masses and the demands of the new technological age. Indeed, it has not only failed in its own orbit, but has discredited socialism in the West as well. The British Labor Party and similarly inclined political groups in Europe have abandoned the platform of nationalization, in part because the Soviet model has resisted both efficiency and democratization. Can there be a clearer admission of the failure of Marxist-Leninist economics than to invite Fiat, Ford and IBM to Russia, after half a century of communist power, to show how modern automobile and computer industries should be built?

The more enlightened communist leaders know that they are facing a painful choice: if they do not allow the warm winds of Western know-how to blow Eastward, their bloc will end up with stagnating economies; if they loosen up their system they may unleash changes that will sweep away their authoritarian power. I believe that the social and economic pressures within communism's own bosom are sufficiently strong to tip the balance in favor of those willing to relax the iron grip, in return for the material benefits their people want so much and need so badly.

The conservative Stalinists remain wedded to the dogma that capitalism is doomed to oblivion. Fearing external influences, ill at ease with an emboldened class of intellectuals they would consign the most spirited and original minds to a mental institution. But this blindness to the inevitable link between industrial progress and human freedom has proven costly. In an era of galloping technological invention there can be no sustained economic advance unless minds are free. The cost was succinctly tabulated by an elite member of the Soviet establishment, the atomic scientist Andrei Sakharov: "Comparing our economy to that of the United States we find that we are behind not only on the quantitative plane, but also—and this is much sadder—on the qualitative plane. The gulf is all the greater in the newest and most revolutionary sectors of the economy. We are ahead of America in coal extraction, but behind in oil, gas and electric energy; we are ten years behind in chemicals and infinitely behind in computer technology. . . . We simply live in another era."

Eastern economic planners have lately come to value Western goods, services and methods. The Soviet Union is now engaged in external commercial operations on a larger scale, in terms of volume, variety and geography, than at any time since the Bolshevik revolution. It has given official endorsement to the law of comparative advantage, by which each nation trades what it can produce more efficiently, for what it needs most urgently. The smaller Eastern European countries, which Russia tried to incorporate into its own closed trade circuits have moved even more daringly in the direction of industrial and commercial involvement with the outside world.

In the last decade, Eastern trade with the West has spiraled upward at a hefty annual rate of 10%; with the less developed world at a spectacular rate of 20%. Moreover, the growth extends beyond the conventional exchange of physical goods to the new dimension of scientific, technological and industrial cooperation and joint business ventures of various types. Particularly significant is the emergence of the transideological corporation through which communist and capitalist firms pursue their profit-making objectives in partnership.

The new opportunities offered by this development are now being seized elsewhere in the world. Our allies are in the forefront of the quest to roll back the ramparts of the cold war. For sometime, and more so in the wake of the new Russo-German non-aggression treaty, their business communities have been enjoying a feast in the Eastern markets. American firms, deprived of an equal right to compete, are left only with the crumbs.

East-West commerce still accounts for a small fraction of the total $300 billion value of world trade. It will therefore be a major new frontier of the international economy. Yet America, the leading repository of man's technological know-how, with a gross national product of almost one trillion dollars and a stake of over 25% in the total merchandise going to the world market, represents less than 1% of East-West commerce, hardly one-tenth of the share commanded by the European Economic Community. And its position is constantly declining. In the process, the United States is becoming steadily less relevant to the dynamics of the East-West situation and less influential in Europe, as the continent is going its own sepa-

rate way. I submit that in the present context of international relations, this constitutes both bad business and bad diplomacy.

If there are strategic considerations which prevent Ford from building trucks in Russia, why are Daimler-Benz of Germany, Renault of France and Leyland of England (all protected by six costly American divisions, not to mention our nuclear umbrella) free to bid for the same project, with the most eager support of their governments? The United States seems to be holding back trade without being able to enforce its professed aims. The goods which we think the communists should not have get there anyway, to the detriment of American business, American labor and the American balance of payments.

In short, U.S. policy has become outdated, incoherent and dangerously out of step with the rest of the alliance. Western Europe and Japan, traumatised by a surge of protectionist sentiment in this country, are pushing ever more aggressively to open alternative markets in the East. Were such sentiment to become law, it would lead to an economic fragmentation of the free world and a weakening of the common front against communism.

Efforts to expand our economic dealings with the East are controversial, for in the background lie potent and legitimate concerns. The Soviets will probably continue to raise threats, as they have been doing over Berlin, at the Suez Canal and in the SALT negotiations of Helsinki. But the mutual interest in survival and prosperity requires that we continue the arduous process of building bridges across the underlying gulf of hostility.

The long neglected Eastern masses are yearning for a consumer society. It is in our self-interest to help them build such a society, not only because there is profit in it, but also because this offers us a chance to take the fuses out of communism's hostile ideology and to enable its social and economic system to evolve toward ours.

There is one area, and one alone, in which the Russians have become self-sufficient: in their war machine. While it would be foolhardy and immoral to sell them strategic goods, it is naive to think that by not trading with the East we can make it militarily weaker; our embargoes have not significantly diminished communist strength. Realistically, all we can hope for is to render the communist world less willing to go to war. At a time of thermonuclear stand-off, this hope can best be furthered by selling it the peaceful goods and technology needed to build a consumer society. Whatever risks might be entailed in such a course have now become small and are worth taking.

As the communist societies falter beneath the burden of excessive regimentation, and the free enterprise societies brace themselves for the onslaught of internal disorder, the two are creeping closer together. Each has more to gain from closer intercourse with the other. Ironically, the newly found bond is common desperation: the urban problems, social problems, problems of poverty and inequality which plague all industrial nations. In this context the promise of East-West trade becomes more than economic. It is a venture on a scale to reawaken the idealism of an alienated generation of youth which feels that not all in the West is good and not all in the East is evil. It is enough to refire the enthusiasm of our beseiged industrial society. For it offers a chance to extend the frontiers of individual initiative, material progress and human freedom not only to Eastern Europe and Soviet Russia, but eventually to China as well.

I am proceeding from the assumption that both communism and free enterprise will survive into the indefinite future. Neither side will voluntarily dismantle its own social structure or try to overwhelm the other with armed force. This stalemate holds out the relatively cheerful prospects of coexistence and, with luck, constructive cooperation and competition. But to turn these prospects into reality, the United States must shift the focus from military to economic diplomacy.

The main thrust of my argument is this: In the present phase of the historic contests with communism it is not our costly and far-flung military arsenal, but our superior capacity for economic progress that constitutes our most effective (and most neglected) weapon. In a figurative sense, we can only conquer the East with the peaceful sword of commerce and industry, and the human freedoms that goes with it. This sword is best wielded by the imaginative American businessman. I call it a "tender conquest" because deeply within the psyche it is welcomed by the victim.

In this spirit, and in order to give concrete shape to my ideas, I have attempted to draft a model charter for East-West economic relations, a charter designed to remove the bureaucratic racks and screws by which trade is still tortured, and to help establish a permanent framework for commerce between state enterprise and free enterprise systems. No final instrument can spring from the mind of a solitary draftsman as Pallas Athene is fabled to have sprung fully equipped from the head of her father Zeus. My guidelines, addressed (not too pretentiously I hope) to policymakers, legislators, administrators, adjudicators and, above all, those engaged in day-to-day business transactions may, perhaps, offer a departure for a new policy approach. I would be glad, if you wish, to have them included in the records of this distinguished Committee.

In conclusion, permit me to formulate what I see as a double challenge, one for businessmen, the other for statesmen.

Since time immemorial, merchants venturing into remote markets have somehow managed to build friendly and lasting relationships, and to overcome the obstacles of religion, racism, nationalism and witchcraft. What they are presently facing in the East is no more than the hesitant resistance of a faltering ideology, one that is in awe of their accomplishments, willing to employ their techniques, but unable to embrace certain of their objectives. The pragmatic American businessman must be unshackled to play his part in the long process of competition and reconciliation that lies ahead, and to make an honest profit too. This is at the very heart of the American ethic.

For the great trading nations of the West which are at the center of world commerce, the challenge is how to assimilate the communist state monopolies into an orderly pattern of international economic cooperation, and thus enable East-West exchange to realize its full potential for prosperity and peace.

VETO OF MANPOWER TRAINING BILL

Mr. TOWER. Mr. President, unlike the views previously expressed by some of my colleagues, I am most pleased that the President has vetoed the manpower training bill passed by the Congress.

Although I was unable to be here the day the conference report was taken up, I was positioned against the bill. It is indeed true that reform of the existing manpower training programs has received careful scrutiny by the Congress in this session. When we debated this bill, my distinguished colleague from Colorado (Mr. DOMINICK) offered a number of amendments on behalf of the administration. I believe that it was unfortunate that these amendments, encompassing most of the original provisions of the President's recommendations, were defeated.

Instead of adopting reforms to both consolidate existing manpower programs and decentralize their control, the main emphasis of the Senate bill and the conference report was on providing federally subsidized public service employment jobs. By adopting this concept the Congress had returned to the philosophy of government that was most popular in the 1930's.

It is my hope that the Congress of the United States will recognize the problems of the 1970's are not the same as those we experienced in the 1930's. By implementing public sector employment for the unemployed, this Nation will again embark on the institution of another federally financed welfare program.

There is no incentive provided in this type of program. What would result is the perpetuation of another program lacking opportunities for further advancement. The bill the President vetoed represents an emotional reaction to a high unemployment rate.

The emphasis of Government should be to provide a system of long-range training opportunities emphasizing the input that can be made by State and local governments with the assistance of the private sector. This is the main thrust of the President's original proposal.

I am hopeful that the Congress, especially the Senate, will recognize the advantages of decentralization of this type of program. In the meantime, I am most confident that the economic situation, which provided the impetus for consideration of the vetoed bill, will show notable improvements in both the fight on inflation and the reduction of unemployment.

GENOCIDE CONVENTION IS NOT A THREAT TO SOVEREIGNTY OF UNITED STATES

Mr. PROXMIRE. Mr. President, many of the foes of the Genocide Convention are making false accusations concerning this convention. One of the more prominent false rumors which has been spread concerning this convention is that if the United States ratified the treaty our Nation's sovereignty would be threatened. This is an absurd rumor and has no basis in fact.

The fact is, as the section on individual rights and responsibilities of the American Bar Association said, and I quote:

> The idea that treaties are the most solemn of international commitments, that they may and should be used to limit the actions of states and engage them in common pursuits, has been accepted, in the United States and universally. Further, and most relevant here, the idea has been accepted that treaties may and should be used to define what areas of individual and governmental activity are matters of international concern. In other words, nothing in the United Nations Charter nor in the many subsequent treaties—including the Genocide Convention—alters the basic principle that matters essentially within the domestic jurisdiction of states must be left to the states without outside interven-

tions. What the Charter, and some of the treaties—including the Genocide Convention—do, is to say that certain kinds of activity are now the concern of all.

This portion of the section on individual rights and responsibilities of the ABA states that genocide is a threat to all mankind and thus is more than an internal matter for any nation. The fact that the entire world went into outrage at the atrocities committed by Germany against the Jews is a prime example of this fact.

The report goes on to say that—

Seen in terms of a threat to international peace and security, the occurrence of genocide anywhere in the world is as much a matter of international concern as, for example, the spread of nuclear weapons.

The result of outlawing genocide for states and individuals is not an infringement upon the right of a state to make genocide, but more importantly it is a protection and guarantee for the right to life for all men. There is a correlative found in individual states outlawing murder. None of us view the restriction on us against committing murder as a restriction or an infringement upon our sovereignty as individuals, but rather we see this restriction as a protection against man's inhumanity to man.

It has become very easy for us to make accusations without analyzing the details and effects of certain treaties and programs. Certainly this has been the case with the Genocide Convention. I believe the time has come for us to debate the actual content and intent of this treaty. Twenty years is long enough to wait.

TRIBUTE TO BOB BENNETT

Mr. ALLOTT. Mr. President, it has come to my attention that Bob Bennett, the Director of Congressional Relations at the Department of Transportation, and son of our distinguished colleague Senator WALLACE BENNETT of Utah, is leaving his post to join a private firm.

While he deserves congratulations on this promotion, I would be remiss if I did not say that we who have worked in this transportation field will miss him greatly. There is no doubt that his efforts contributed in no small way to the passage of the many pieces of landmark legislation in the transportation field over the last 2 years.

Much like his father, Bob Bennett is a hard-working, dedicated, and completely honorable man. He did an outstanding job, and as a matter of fact, the rougher the situation, the better his performance.

I wish him continued success and prosperity in his new assignment.

IN THE SPIRIT OF THE SEASON

Mr. INOUYE. Mr. President, I wish to share with my colleagues a most moving article which appeared in last Sunday's Honolulu Star-Bulletin and Advertiser written by Samuel Crowningburg-Amalu. Known to all Hawaiians as Sammy Amalu, this descendent of Hawaii's kings is one of our most perceptive observers and recorders of the passing scene.

Without once mentioning Christmas and, indeed, without once mentioning peace, he has written what I can only describe as a most superlative testament to the spirit of the season we now celebrate. I commend it to you most highly and I wish to associate myself with the thoughts here so wonderfully expressed. I can think of no more descriptive portrayal of the key issue of our times nor a more meaningful statement of the nature of the unmet obligation before us.

I wish to share this message with you and also take this opportunity to extend to you the greetings of the season. Mele Kalikimaka me ka Hauoli Makahiki Hou.

I ask unanimous consent that the article be printed in the RECORD.

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

BOY MEETS GIRL: THE OLDEST STORY . . . AND STILL THE BEST

(By Samuel Crowningburg-Amalu)

Once I was asked a question—if you had been granted but one wish, for what would you ask? Immediate answers quickly rose to my lips. Happiness, wealth, honors, fame and prestige, good health. And all as quickly died and faded away. Not for any of them would I ask. Not if I had but one wish and only one. Long reflection and the searching of my own soul evoked the only possible answer for me. I would ask that I be wanted by the one I loved. This and naught else.

Wash away the caparison accrescent to life, those false trappings with which we have accoutered life, and what is left but the intrinsic of a boy and a girl. Here is the essential of man—a new Adam, a new Eve, each day resurrected anew. Each new hour brought back to life again. Here lie the seeds whence are to be born the coming generations of man. A boy and a girl. No more. No less.

I watched them as they gathered from all over this vast land. Women. Some of them almost children. They had come for one single purpose—to gather again to their breasts, long starved by separation, the men they loved. To hold them again in their arms. To know their flesh again and the warmth of their lips. To see again in the eyes of their men that spark of love and of wanting that through all the long hours apart, they had never forgotten.

I looked upon these women, these girls, and my heart bled for them. I knew a joy akin to their own joy that they would soon greet the boys they loved. But I also knew a great sadness for I could not forget the hour that only too soon would come to them when they and their men must part again. They to return to their own lonely beds. Their men to the battlefields and perhaps to death.

How painstakingly these girls must have dressed this morning. Each hair in place; the lipstick just right. And just the right dress to please one guy, to recall again to some lad a girl and an hour that once they both knew. They stood in two long lines—nervous, anxious, and most of all filled with the fear that he might not come. They stood in two long lines, and each heart prayed a silent prayer of aching tears and lonely nights. A prayer that their men would indeed return to them from the war torn marshes and fens of Annam, of Cochin China, and of Tonkin. For their men were soldiers and sailors and marines and boys of the air force. Their men were flying in from Saigon and Da Nang. They were flying in by chartered planes and would then be ferried by bus to the Rest and Recuperation Center at Fort DeRussy. Twice a day do they come—eight busloads of them—day after day for 365 days a year.

And twice a day this same scene is enacted—a girl waiting for the boy she loves. Just so, through all the past ages, women have waited for their warrior men to come home. Some did. Others never did. Is there ever to be an end to this? Might we not have wrought some more fortunate design in life than war? Is not Death already so sure in the lives of human kind; must we speed his coming and sharpen his scythe with our endless wars? Is there no respite for us and for the women who must waste their days in waiting?

I just do not see how they manage to do it and to continue doing it, the men and women who work at the R and R Center. I certainly could not. The air is too heavily charged with emotion, too drowned in waves of anxiety. I listened to Army Chaplain James R. Linderman as he led these anxious girls through their last hour of waiting, right up to the climactic point when the bus arrived, and their boys were there.

I watched him skillfully weave a web of distraction and diversion. It was an art, but one that only a kindly and loving heart could perform. It was a generous gesture for it prepared the girls in a way that they could never have done for themselves. Without a crook, without a staff, he is the good shepherd. He leads these girls out of the valley and into the arms of their men.

I talked to Captain Sybil Lawless of the WAC, the Operations Officer at the Center. And I asked her—My God, how can you stand this day after day? Do you ever get inured to it, ever get used to it? And she looked at me with a wistful eye and a shy smile, and she replied: No, I can never be inured to it. But we must do it. They are our boys. And our girls.

I talked to Dave Ziebenhenne, the coordinator at the Center for the Hawaii Visitors Bureau, and he gave me the figures. Ten thousand men a month arriving at Fort DeRussy. Almost $9 million spent by these men each year in Hawaii. The R and R program represents a not inconsiderable portion of our state's economy. The figures are there, and they are astonishing. Almost 57,000 military personnel and their dependents in only the first quarter of this fiscal year.

And then I went back to the girls and stood beside them as they waited for their men to come home. I watched their excitement mount, their anxiety build to a near frenzy as the moment neared when a bus would draw up to the door and a lad would jump out into their arms—perhaps. I watched some who stood there all atrembling, hands shaking, barely able to stand. Others tried their best to appear calm, perhaps even disinterested—except for the tears in their eyes. I watched these girls, and I thought to myself—Good God, what are we doing to you and to the men you love? What are we doing to you who are our children?

Then, before you knew it, the entire thing was done. The bus had arrived. A boy had leaped out, took his girl in his arms, held her to him with a hunger that almost hurt, and kissed her—a long, long kiss. And they were gone.

I walked away and went back to my helicopter where Cecil Harris, a soldier lad, was waiting to take me home. I gazed long at Cecil, and he looked back at me. And in that moment, I think we both managed to bridge the years that separated his generation from mine. Only then did I finally understand the agony of our days. We were both caught in a seine that neither of us had woven, nor could we ever escape.

I saw the youth of him, the strong and silent courage of him. And I knew that this was the way of every soldier who would live for his country—or die for it if he must. I saw again in Cecil a shadow of myself a quarter century ago. And I knew in my own heart that I had failed him somehow, that I had not done enough in my own days to assure that this child and any child in all the world would never again have to go to war. To assure that never again would any

girl have to come from the ends of the Earth to wait for her warrior lad back from the wars.

There is no escape for any of us. Cecil will go back to Vietnam. That is where a soldier goes. That is where the war is fought. And I will go back to Mokuleia and wonder what I might have done—what I could have done. But this one truth I learned this day—there is only one essential in life. A boy and a girl. No more. No less.

THE SST

Mr. FANNIN. Mr. President, I am sure my colleagues will be interested in the conference held December 7, 1970, at the Wings Club in New York City's Biltmore Hotel concerning the SST. Major airlines of the United States held the press conference. Attending were Najeeb Halaby, president and chief executive of Pan American World Airways; Charles Tillinghast, chairman of the board, TWA; George Spater, president and chief executive officer, American Airlines; Floyd Hall, president and chief executive officer, Eastern Air Lines; and John Blackman, vice president public affairs representing George Keck, president and chief executive officer, United Airlines.

In a statement on behalf of those present, Mr. Halaby said:

We are here today to express our convictions that the United States should proceed with the program to build two prototype supersonic transports for test and research purposes.

This program is essential so that we do not foreclose the possibility of our country building the airplane of the future and forefeit that opportunity instead to the British, French or Russians.

The Senate's reversal of America's supersonic transport program is a drastic, extreme measure. Here was a nine year old policy supported by three Presidents—initiated by President Kennedy and supported by Presidents Johnson and Nixon—and by five Congresses since then, a program studied by scores of Congressional committees. We thought there was no doubt as to the country's policy, only the question of how much appropriation should be allocated on what schedule.

After studying the debate, the Chief Executives of the airlines represented here today realize that 52 Senators of the United States do not understand the program and the Senate has reversed field in the ninth year of the program.

There have been a number of questions properly asked about the U.S. Supersonic transport. We would like to reply to them very briefly.

The first question is whether or not the airlines support the program.

The answer is unequivocal. We support the program to build two prototypes, then to decide on whether or not a production model should be built, what its specifications should be with all the test data, actual facts, before us, and not make a decision on speculations by scientists pro and con but actual hard facts before us. This program, therefore, the President's program, has the support of the airline industry.

Second, are we able to pay for our part of the program?

We believe that the Government and the aerospace industry and the airlines will be able to arrange for each to pay its part in the time period 1976 to 1980.

Third, are we prepared to invest in the program?

Twenty-six airlines have already put up $81 million in the program—$18 million for Pan Am alone—money we could have used otherwise, but which we paid into the U.S. Treasury five years ago as our evidence of faith in the program.

Fourth, how about the airplane engine and engine manufacturers?

They have invested some $206 million and are committed to invest further as the program progresses.

Fifth, what about jobs?

The American program means jobs . . . tax revenues . . . a favorable balance of trade. It means the creation of jobs for Americans, not the export of jobs—not only for 1971 and 1972 but for the entire decade and probably the next two decades. We think that keeping thousands of highly skilled people employed in any economy that has almost five million unemployed would be a high national priority.

Sixth, is this a subsidy by the U.S. Government?

It is not a subsidy to labor, the manufacturers, or to the airlines. The Government estimates that the SST, if successful will return its investment to the U.S. Government—a billion dollars if 500 aircraft are sold.

Seventh, what sort of a supersonic will we as airlines accept?

Only one that is safe and economically and socially acceptable.

We haven't the slightest intention of sonic booming our passengers or prospective passengers or our prospective shippers.

We haven't the slightest intention of making any more disturbances at airports than we now make and we have assumed all along that none of the Governments in which we might be permitted to operate this airplane would permit any such social damage or disturbance. Not only does the Government prohibit such damage or disturbance, but we would not undertake it. The fact is that we do not yet know whether there would be any damage or disturbance. We will only know when development and testing are complete.

The SST is coming. The sole question is whether we do it, or whether we let someone else do it. If we do it we will gain the benefits.

If somebody else does it, we will lose world leadership in aviation as we have lost it in shipping. As we look around the world and see what is happening in steel production, automobile production, textile production, is there not some basis for the conclusion that we had better hold tight to what production advantages we still have?

We believe opponents of the SST have been misguided in wanting to cancel the prototype program when that program is specifically designed to determine whether or not an environmentally satisfactory SST can be built.

We believe opponents of the SST have seriously underestimated the adverse economic effects, both immediate and long term, of canceling the program.

Also, two airline presidents who could not be present at the Wings Club conference wired Mr. Halaby at the conference as follows:

BRANIFF INTERNATIONAL,
Dallas, Tex., December 7, 1970.

To: NAJEEB E. HALABY.

"Regret unable to be with you today, but I take this opportunity to go on record again as wholeheartedly endorsing the SST development program.

At this point it is almost inconceivable that we could consider wasting the ability and knowledge we have gained from the research and development already placed into this program. It must be continued so that we do not lose this momentum.

The SST proposed by the United States represents not only logical technical advancement, but also a new and necessary tool by which this country will be able to maintain its leadership in world transportation and trade. I firmly believe that its economic advantages far outweigh any disadvantages.

We respect the opinion of those who oppose the SST on environmental and/or economic grounds, but we submit that there are solutions which will certainly not be brought about if research and development is brought to a standstill."

/s/ HARDING L. LAWRENCE,
Chairman of the Board, and Chief Executive Officer.

CONTINENTAL AIR LINES, *December 7, 1970.*

To: NAJEEB E. HALABY, PAN AMERICAN WORLD AIRWAYS, INC.

"All of us at Continental Air Lines join with you in requesting further Congressional review and support of the United States' Supersonic aircraft. This nation has always led the world in the air age. To resign this leading role in international industry and retreat from greatness would be a grievous error with unhappy results in every phase of the air transport industry."

/s/ ROBERT F. SIX, *President.*

CIGARETTE ADS

Mr. MOSS. Mr. President, after January 1, 1971, cigarette advertisements will no longer be allowed on radio and television in this country. Other nations are also beginning to take action to discourage the use of tobacco, knowing as we do, of the health hazard involved.

The New York Times of December 16 contains an article regarding such action taken in the British Parliament, and I ask unanimous consent that the article be printed in the RECORD.

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

[From the New York Times, Wed., Dec. 16, 1970]

HOUSE OF COMMONS ACCEPTS PRIVATE ANTI-SMOKING BILL

LONDON, Dec. 15.—The House of Commons gave a nod of approval today to a plea for stricter measures to discourage the use of tobacco.

Sir Gerald Nabarro, a back-bench Conservative, introduced a private member's bill, with House approval, that would require a "lurid" warning on all cigarette and other tobacco packages about the health hazards involved. Also it would require a statement of what Sir Gerald called the "poison" contents—tar and nicotine.

Such private members' bills do not usually get very far in Parliament unless the Government decides to support them. The Conservative Government's attitude on the Nabarro measure is unknown, but today's favorable reception could encourage support.

INDUCING THE PROFIT MOTIVE AMONG EMPLOYEES

Mr. TOWER. Mr. President, a most thoughtful article on the profit incentive as an employee motivation appeared in the November edition of the magazine, the Chief Executive. The author is the newly elected chairman, president, and chief executive officer of Ling-Temco-Vought, Inc., Mr. Paul Thayer. I might note that Paul Thayer speaks from a commanding position on this subject as a look at L-T-V's sales history during the period from 1965 to the present will show. Under Paul Thayer's presidency over that time sales grew from $195 million to $714 million.

I ask that the text of the article be reprinted for the benefit of my colleagues in the RECORD at this point.

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

INDUCING THE PROFIT MOTIVE AMONG EMPLOYES

In employe communication, the profit motive is the end, and other rationale is merely means to its achievement.

Too many businessmen fail to recognize the goal of any effort to communicate within their organizations. In a recent study made here in Dallas, only one of 22 editors of employe publications stated his charter was to help make a buck. Others reasoned their objective was employe recognition, information, motivation, entertainment, to link distant personnel, "unify the family," or "create 'one big happy family.'"

They're aimed in the right direction. By recognizing an employe's accomplishments you express appreciation, encouragement to continue and set the example for those around him. Recognition boosts morale and motivation. Motivated employes are the ones who will turn out a better product, be on the job and on time regularly and stay with you the longest.

When they reduce rejections and remakes and save you recruiting and training costs through low turnover, they've taken a big step in helping you to a healthy financial statement.

To many, this may seem like cold logic. Not upon closer examination. The informed and motivated person who makes a real contribution to his company's progress is the person who will enjoy promotion, security and long tenure. He recognizes that when the company is profitable, he also profits.

Commands are given by monologue. But understanding is reached through dialogue. Dialogue demands that we earn the right to be heard by lending our ears to what others have to say. Others' opinions can illuminate and often cause a change in our own direction.

Many authorities say a good employee communication plan is a two-way street. On it, questions, opinions and suggestions flow upward, and answers, information and positions flow downward.

I submit that it's more than that: The best plan is an omnidirectional plan. In today's economy, when everyone is aware of outside and uncontrollable threats to his security, it's not uncommon for, say, the engineers and the marketing men to be hostile, or the accounting section to be wary of the computer section, for no other reason than each not understanding the role of the other.

It's not enough for the management above each to know what's going on. Each section should understand the other's importance to the over-all goal and how their functions are related. With effective dialogue from side to side, as well as up and down, "them and we" work can become teamwork.

Some managers hold to the touching belief that they are the sole possessors of all that is right in economics, education, religion or culture—or all four. Through dialogue, the communion of men's minds is likely to broaden and expand their ideas.

A program in which all levels of employes and management enjoy equal access to the ideas, philosophy and opinions of all other levels is one which will provide open channels to more profitable operations.

By opening his mind to his staff and motivating them to do the same to him and their own staff, the chief executive sets the spirit of any communication plan. If he is free with his ideas, those down the line will be, too. But if he feels that "what they don't know won't hurt them," his attitude will silence the entire organization.

His philosophy must be relayed by day-to-day example. No written directive can transmit this message.

To reach today's employe, he must first be identified. What are his needs, his background and interests, his aspiration? He's far more sophisticated today, and is taking home more money, thus making him a more affluent citizen.

Much of what we read and watch today is opinionated—most, subtly, but much, brazenly—and much is slanted against business interests. On a steady diet of such programing the audience is swayed to the media's philosophy.

Communication between the various groups within an organization thus takes on even more importance. To counteract the newspapers' bold headlines about demonstrators at corporate meetings, for example, there must be open, forthright communication channels within the company.

To answer the commentator's over-attention to dissenters, there must be confident understanding among all levels of management and employes.

In any organization there are key individuals who have become natural opinion centers—people others have confidence in and respect Without charter of any kind, they merely evolve into positions of *ex officio* leadership. They're on top of things. They know what's going on and how to pull strings. And they pass it on or use it to impress those around them.

Union leaders and other groups have understood this process and used it to their advantage for years. Management can, and should, do the same. In most cases their views are no more than the result of having seen only one side of the issue. Reveal the other side to them, candidly, and they'll become important keys to an effective employe communication program.

The media of employe communication are as diverse as the imagination, but what is appropriate for one organization may be impractical to another. An elaborate, full-color monthly magazine is obviously out of the question for a 200-employe company, but a mimeographed newsletter may be perfect.

Closed-circuit TV and videotape presentations are available to only the richest corporations, but a well-prepared 35mm slide show will serve a small, one-plant operation just as well.

Employe publications give personnel a tangible item they can easily identify with; they're the "stars." The articles are written for, by and about them. They can show them to their families and friends.

Company bulletin boards can also be useful to employes when shared with management. Their personal items, such as "for sale," "ride wanted," etc., placed beside official notices helps dissolve the invisible line between "them" (employes) and "us" (management).

Employe meetings give all levels the opportunity to rub elbows and exchange ideas, allowing face-to-face problem-solving not available every day.

Management and supervisors' meetings allow the same opportunities, plus lend an air of exclusivity to those who've advanced far enough to be included.

Letters addressed to employes from top management on a regular basis keep a continuing image of the executive before the employe. Sent to the employe's home, the letter involves his wife and family, an added benefit when seeking his support.

Payroll check or voucher stuffers with relative information are a well-read communications medium.

Booklets and brochures on company-provided benefits, new programs and other pertinent information go far in keeping employes aware that they're working for more than just that $3.50 or whatever an hour.

An easily understood and efficient system for receiving and answering employes' complaints, questions and suggestions goes far in convincing employes that the company is, indeed, concerned about them as individuals.

Finally, a good communication system will withstand a measurement of its effectiveness, the result of which will answer our original question, "Why employe communication?"

In making the test, short-term, interim objectives and the long-term, and basic, goal of profitability must be considered. A short-term goal might be the prevention of a walkout or strike; "selling" a new pension plan; introducing new parking rules; reducing the number of grievances, and always, safety. The list is long and familiar and measuring the results is relatively simple.

Measuring the long-term success of employe communication in helping the company attain its ultimate goal is more difficult. As a measure, have there been improvements in employe attendance, on-time performance, production and morale?

Many variables—improved technology, management planning and decisions, idiosyncrasies of customers, changes in the economy—may affect these results, so effectiveness is measured by feedback, written and oral response to communication; employe attitude surveys; nondirective interviews; employe relations indices which reflect the state of employe morale in terms of absenteeism, tardiness, turnover, safety, suggestions, grievances, work stoppages, disciplinary suspensions and others; surveys by outside organizations, and the measure of assimilation of communication.

To achieve the corporate goals of a fair profit through improved products, increased sales, reduced absenteeism and lower costs, businessmen must understand that their proficiency in the art of communicating is a major factor in their daily activities.

Any business organization is in a continual process of formation and re-formation, and all employes should participate. The perfect company has yet to be organized, the perfect product yet to be produced. All of these we work toward, and the way to reach them is by communication.

ELECTORAL COLLEGE REFORM

Mr. ERVIN. Mr. President, one of the most interesting aspects of this year's debate on electoral college reform was the dialog between Judge Edward Gossett, of Texas, and the National Chamber of Commerce on the issue of the national chamber's policy position on electoral reform. To complement this dialog, I ask unanimous consent that a letter of October 21, 1970, from Mr. J. Harvie Williams, director of the Committee on Electoral College Reform, to Mr. Hilton Davis, legislative manager of the Chamber of Commerce of the United States, be printed in the RECORD.

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

OCTOBER 21, 1970.

Mr. HILTON DAVIS,
General Manager, Legislative Action, Chamber of Commerce of the United States, Washington, D.C.

DEAR MR. DAVIS: I have just read today, in the Congressional Record of September 30th, your letter to Judge Gossett describing the development of the National Chamber's policy position on electoral reform.

I would question only a part of one sentence at the end of the next to last paragraph. You may well "believe that no other organization has made a more thorough study of electoral reform . . ." The facts are quite different. Here at the American Good Government Society we have studied the question much longer and much more thoroughly.

None of the National Chamber's material that I have seen, which is most of it, including all testimony before the Committees of Congress, takes cognizance of the nature and structure of the Constitution. A more thorough study would have discovered the simple fact that "the more perfect Union" of the Constitution is a National-Federal Union—a National Union of People in the House of Representatives and in the President, and a Federal Union of States in the Senate and in the President. As the source and foundation of the separated legislative and executive Powers, the National-Federal Union is superimposed on both Congress and the President. The sap of every action of Congress and every action of the President rises through the same electoral roots, from the same soil—the People as a Nation, and the same People as the States—so far as the Constitution goes.

However, that structure has been tortuously distorted by the State Legislatures' adoption of the statewide general ticket for the election of Electors apportioned to the People with Representatives. The consequences of these actions by the State Legislatures have always been the source of the electoral reform movements. In the main, proponents of the many reform proposals have sought to reform the results of various elections without reference to the structure of the Constitution, which shapes the American Political System.

More thorough study would have shown clearly that the Electors are the necessary links between the legal Parties of the States and the Constitution to which Parties are unknown. They are at once Officers of the Constitution and representatives of their state parties. As far as the Constitution is concerned they are the Parties. If you abolish them you necessarily bring in all the apparatus of Party or leave the Constitution without means to fill its own offices. Too, you transform Presidential elections from the present aggregation of *intra*-state elections to one inter-state election, a further centralization of our system.

Of course, the contingent election, when no one has a majority, should be moved from the House voting by States, to a joint session of the House and Senate with each Representative and Senator having one vote. This would carry the National-Federal Union into the contingency.

If this seems simple, it is. Better yet, such a Constitutional Amendment could be effective in the next election if ratified as late as October, 1972, because present state election laws for Representatives could be readily adapted to the National Electors.

With all good wishes.

Sincerely,

J. HARVIE WILLIAMS,
Director, Committee on Electoral College Reform.

FELLOWSHIP DAY

Mr. SCOTT. Mr. President, as we enter this Christmas season, I would like to bring to the attention and consideration of this body, a program which has been initiated by Mr. Carl E. Mau, of Media, Pa., and other interested parties. Their proposal, known as Fellowship Day, is intended to develop new communications and understanding at a grassroots level between people of different races.

The concept, while simple, has far-reaching effect. Fellowship Day will be Sunday, December 20, and will begin with church services held in each other's church or synagogue. White and black families will be encouraged to break bread together, with white families inviting black families to dinner, and vice versa. I believe this program will go far to enhance the spirit of togetherness between people of all races and colors, and give real meaning to the guiding force of the holiday season, "Peace on Earth, Good Will Toward Men."

Mr. President, I ask unanimous consent to place in the RECORD for the consideration of my colleagues the proclamation of Fellowship Day by the mayor of Chester and various supporting news articles.

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

PROCLAMATION, CITY OF CHESTER

Whereas, The United States of America was founded almost two hundred years ago on enduring principles which have enabled this country to become strong and righteous; and

Whereas, The pages of our history in recent years have been stained by racial tensions and conflicts which threaten the very life-blood of this country; and

Whereas, The precious heritage passed on to us by our forefathers must be safeguarded against the undemocratic influences using this means to destroy us; and

Whereas, This can best be accomplished through the individual initiative of all Americans, black and white, by the "breaking of bread" in the peace and tranquility of the American home; and

Now, therefore, I, John H. Nacrelli, Mayor of the City of Chester, designate the date of December 20, 1970, being at the height of the Christmas season, when "Peace on Earth, Goodwill Towards Men" is in our hearts, be, and is hereby proclaimed Fellowship Day-U.S.A.; and

Further resolved, That all citizens be urged to extend the hand of friendship to members of other races on that day, with the hope that the fellowship and goodwill exhibited on this occasion endure not only through the Christmas season, but for the entire year.

Proclaimed this 3rd day of December, 1970, A.D.

JOHN H. NACRELLI,
Mayor.

[From the Delaware County Daily Times, Nov. 26, 1970]

FELLOWSHIP DAY YEAR-ROUND

We endorse any program which we think has a chance of promoting better understanding between the black and white races. The upcoming Fellowship Day is no exception.

Dec. 20 has been designated as Fellowship Day by its sponsors. On that Sunday, white families are encouraged to invite black to their homes for dinner, and black families are urged to welcome whites into their homes for a meal.

People sitting down with each other at the table will have ample opportunity to gain a fuller understanding of their fellow men—black or white.

Media, a community that provides examples of how whites and Negroes can live together, has been the first to recognize officially Dec. 20 as Fellowship Day. We hope other boroughs and townships will follow that lead.

Similar interracial activities have been attempted across the nation in past years. To our knowledge, these have produced no easy answers to the great problems of today.

But we would be surprised if most participants did not have their new-found friends' homes without a little more understanding than when they entered.

No one expects a sudden difference in the racial climate of Delaware County after Dec. 20. However, subtle changes between the black and white communities can help build a better county for tomorrow.

With proper direction and true understanding, Fellowship Day may grow into fellowship the year-round.

[From the Delaware County Daily Times, Nov. 20, 1970]

FOR RACIAL UNDERSTANDING: FELLOWSHIP DAY APPROVED IN MEDIA

MEDIA.—Borough council voted Thursday night to set aside Dec. 20 as "Fellowship Day" here in an attempt to promote better racial understanding.

Carl Mau, a Media publisher who sought the resolution, said before the council meeting that he thought of Fellowship Day after working with black families this fall to raise money for the Chester High School band.

"That was the first time I ever worked with black people," said Mau. "I thought, 'If this is what black people are like, let's get with it.' "

"There have been groups meeting in public halls for a long time, but I felt by meeting in the sanctity of the home, there would be more genuine expression." He emphasized, "I'm not saying this is the complete solution, but I hope it will open the door to better understanding between black and white citizens."

Mayor Robert Mickle, who proclaimed Dec. 20 as "Fellowship Day" here, called Mau a "big booster of Media."

"He makes all kinds of telephone calls and contacts to boost the borough and he has helped the boys going into the service. He is a tireless worker," the mayor said.

The official proclamation asks "that all citizens be urged to extend the hand of friendship to members of other races on that day (Dec. 20) with the hope that the fellowship and goodwill exhibited on this occasion will endure not only through the Christmas season but for the entire year."

Mau, an active member of the Veterans of Foreign Wars (VFW), said he hoped the program will attract "at least 500 families in Delaware County and a half million over the country."

Media is the first community in the nation to support the day officially, Mau said.

He said he plans to introduce a similar resolution to the county commissioners at their weekly meeting at 10 a.m. next Wednesday.

"I hope to send out 10,000 to 25,000 copies of ideas on implementation to churches, service clubs and other organizations," Mau said, "It's lucky this is a printing firm."

He said he would ask the organizations to serve as intermediaries taking names of families who wish to spend an evening with a family of another race.

"I'm hoping just as many black people will invite whites, as whites, blacks," he said. "It would be too easy for me to ask a black family over. I hope some black family invites me."

Mau said he believed "it has just never occurred" to many people to share a dinner with a family of another race. Fellowship Day could provide the necessary impetus, he added.

He also suggested the day be celebrated regularly every third Sunday in December, just at the beginning of the Christmas season, when the spirit of "peace on earth, good will to men" prevails.

Mau said he has asked President Richard Nixon to declare the day a national observance. The proposal is still being evaluated, by the President's assistants, he said.

"The White House will advise us how to handle this—we may have to introduce this to the Senate for action," he said.

He said he had received a letter from Sen. Hugh Scott (R-Pa.) supporting the idea of Fellowship Day. Several other officials also have responded favorably, Mau said, including Philadelphia's Mayor James Tate.

Mau said he wrote letters outlining the proposal to every senator and governor in

the country as well as about one-third of the congressmen.

[From the Suburban and Wayne Times, Nov. 5, 1970]

A GRAND NEW IDEA

Once in awhile someone comes up with a new idea which gives hope for the future.

Such a "new idea" is "Fellowship Day," proposed for Sunday, December 20, in an effort to bring the black and white people of our nation together.

"Fellowship Day" would, in the words of its originator, Carl Mau, of Media, "be a day when white families will invite black families to dinner and vice versa. American white and black families 'breaking bread' at the same table at the beginning of the Christmas Season will give new meaning to 'peace on Earth, Good Will Toward Men,' and hopefully, this spirit will continue throughout the year."

Thus far, Mr. Mau has received enthusiastic endorsement from Senator Hugh Scott, who has written the White House urging the President to proclaim Sunday, December 20, as "Fellowship Day."

Sen. George McGovern and former Pennsylvania Governor William Scranton, as well as Philadelphia Mayor James Tate have gotten on the bandwagon .(If you think it's easy to get large-bore politicians to agree to anything in a hurry, try it sometime.) Their acquiescence indicates that they recognize that Mr. Mau has a gem of an idea which may help toward reconciliation of the races.

As Carl Mau says: "All of us, black and white, are going to be here in America together for a long time."

We should all look into our hearts and see if "Fellowship Day," by bringing a family of the other race into our homes, might contribute to a better spirit of understanding and tolerance in our land.

Will you join? Just take that first step and invite someone to your home—or get your church or service club to sponsor group events at which a white famliy would sponsor a black family at dinner—or vice versa. There are many ways in which "Fellowship Day" could get under way and be a success in turning away our races from alienation.

Let's start this year, not next.

NATIONAL OCEANIC AND ATMOSPHERIC AGENCY—TEXAS TEKTITE PROGRAM

Mr. TOWER. Mr. President, one of the most encouraging and exciting developments of this year, I believe, has been the establishment of the National Oceanic and Atmospheric Agency by the administration. Previous administrations had ruminated over the plan for years, and nothing had come of it. This administration has finally made the dream of oceanographic- and conservation-minded people a reality. I am proud to have played a role in this matter. My staff and I had met with administration officials many times, urging them to take this action and working on some of the details. I look forward to NOAA's being adequately funded so that it can begin in earnest the truly momentous tasks that lie ahead of it. I urge the involved committees to give this item a high priority in the consideration of expenditures early during the next Congress.

Having long been concerned with marine affairs and having been a leader in the fight to establish NOAA, I view with great interest the developments in this area. My own State of Texas has many hundreds of miles of coastline where yearly literally millions of people work or relax near or on the ocean. We Texans have a long tradition of working with and on the ocean, and recently even in it. For this reason, I was extremely pleased recently to learn of the plans, developed by the city of Galveston in conjunction with Texas A. & M. University and the University of Texas Medical Branch at Galveston, to establish a far-reaching land-ocean complex in Galveston to study and expand upon man's relationship with the sea. This plan is known as the Texas Tektite program. Part of this energetic program—the Marine Biomedical Institute—has already been established and is functioning well.

The area of the Texas gulf coast offers one of the truly unique locales in which such a complex could conceivably be established. Not only is the climate right for year-round operations, but, more importantly, the vast technical background that is necessary for the support of such a project is already available. The Texas A. & M. campus is currently doing much work in the field of marine biology, while the University of Texas medical branch has been one of the leaders in the study of marine related medical advancements. In addition, Rice University and the University of Houston, which have done outstanding work in many, many fields, are proximately located along with numerous other universities and junior colleges.

I am pleased to give the Texas Tektite program my wholehearted support and ask the Members of this body to familiarize themselves with it. When this is done, I feel certain that everyone will share my support of this truly exciting and, in terms of human betterment, greatly rewarding program.

UNFAIR CAMPAIGN TACTICS

Mr. McGEE. Mr. President, no one can be more interested in protecting the good name of the profession of politics than the Members of the Congress of the United States. Our profession is politics; that is why we are here.

When unfair campaign tactics pollute the political atmosphere, however, our profession becomes something less than the highest calling. Any effort to keep campaigns clean, therefore, not only protects the voter but also helps the candidates.

The Fair Campaign Practices Committee has been working in this field since 1954. The committee's report on its work during a campaign is not completed until long after the political dust has settled. We do not yet know the effect of its work during the 1970 campaigns.

But there are some indications in news stories written near election day. It is worthwhile looking at the overall picture as presented in the following stories: First, a Scripps-Howard Newspaper Alliance story from the Washington Daily News, October 23, 1970; next, an Associated Press story in the Washington Evening Star, November 2, 1970; then a postelection story from the Boston Globe, November 10, 1970. I ask unanimous consent that these news stories be printed in the RECORD.

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

[From the Washington Daily News, Oct. 23, 1970]

POLITICAL SMEAR WARNINGS UP

(By Ted Knap)

An official of the Fair Campaign Practices Committee today warned television viewers to watch out for a flood of "sophisticated smear" in the final week of the Nov. 3 election campaigns.

Executive Director Samuel J. Archibald said candidates in a record 75 per cent of the races have signed the fair campaign pledge, and complaints of violations thus far are running slightly behind 1968 and 1966.

"But that does not mean this campaign is cleaner," he said. "Right now is when dirty politics hits the fan. We are starting to get more complaints and we expect a huge surge in the final week."

In an effort to stem the flood, the committee has written to all radio and TV stations and newspapers asking them to refuse to sell time and space for any new attacks after midnight Friday. The committee suggests no restriction on political advertising that already has been running or that does not feature new attacks.

Mr. Archibald said a pre-campaign survey disclosed that half of the stations and newspapers put no restriction on political ads in the final few days, when it becomes too late for the attacked candidate to make an adequate response.

PRIVATE ORGANIZATION

The committee is a private, nonprofit organization founded in 1954 and financed by foundations. It is headed by Charles P. Taft, Cincinnati attorney, and its directors include leaders of both political parties. It has no enforcement powers, but investigates and publicizes complaints.

The committee has detected a trend toward what Mr. Archibald calls the "sophisticated smear" which insinuates but does not flatly state an allegation. He said it is especially prevalent in TV spots.

"It takes the opponent's voting record, or some stand or statement he has made on the issues, and presents it out of context in a highly dramatized way that appeals to the emotions. It's hard to put your finger on it because it's not obviously false," Mr. Archibald said. He declined to cite examples.

The committee reported earlier that it had received a number of complaints about campaign ads that implied guilt association, particularly ads in which a candidate tries to picture long-haired young people as supporters of his opponent when in fact they were only members of the opponent's audience. There have been reports of some hippie types being hired by candidates to appear with their opponents.

[From the Washington Evening Star, Nov. 2, 1970]

SENATE RACES ROUGH: CAMPAIGN COMPLAINTS SOAR

Formal charges of unfair campaigning in Senate contests more than doubled this year, reflecting the intense battle being fought over control of the chamber, according to the head of the Fair Campaign Practices Committee.

Samuel J. Archibald, executive director of the committee, says Senate candidates have registered 19 complaints, compared with nine in 1968 and nine in 1966.

"It could reflect the importance the White House has attached to the Senate races," he said, "and perhaps the greater interest in Senate races."

AN OVERALL DECLINE

Yet the 56 complaints received in the 35 Senate, 435 House and 35 governor's races is a marked decrease from the 68 complaints in 1966 and 67 in 1968, Archibald said in an interview.

He doesn't believe those figures represent a cleaner campaign.

"Maybe with professional campaign managers getting into it more and more, the smears are more subtle and make it difficult to get our finger on it," he said.

"I would like to think politics is getting a little cleaner but frankly we haven't seen anything new. Every trick that has been reported to us is as old as the game of politics."

REPUDIATIONS RECEIVED

The Fair Campaign Practices Committee is a private nonpartisan organization formed in 1954 at the suggestion of Congress. It gathers information on complaints from both campaign camps and disseminates the facts to news media, but has no enforcement powers.

Yesterday, Archibald received telegrams from two Republican senatorial candidates repudiating newspaper advertisements linking their opponents and six other Democratic candidates to crime and violence.

Nelson Gross of New Jersey said, "Neither I nor any member of my campaign staff had any knowledge of the ad . . . prior to its publication. We in no way participated in its preparation nor did we approve its insertion."

Anderson Carter of New Mexico said he subscribes to the fair campaign practices code which condemns distortion of a candidate's record or views and that he repudiates "any activities on my part which do distort."

Archibald said the Democratic Senatorial Campaign Committee had lodged a protest against ads run in at least 61 papers and paid for by the Committee for Responsible Congress headed by Republican National Committeeman Carl L. Shipley of the District of Columbia.

FIVE ARE INCUMBENTS

Targets of the ads were Sens. Joseph Montoya, D-N.M.; Harrison A. Williams Jr., D-N.J.; Edmund S. Muskie, D-Maine; Joseph D. Tydings, D-Md., and Gale McGee, D-Wyo., and Democratic senatorial candidates Rep. John Tunney of California, Adlai Stevenson III of Illinois and Lawton Chiles of Florida.

In Waterloo, Iowa, yesterday, Sen. Harold Hughes blamed President Nixon and Vice President Agnew for the "dirtiest politics I have ever seen" in their campaign swings around the country.

Archibald said most protests this year allege misinterpretation, distortion or falsification of a candidate's record or position. Incumbents and challengers have registered the same number of complaints.

Democrats filed more protests this year, 33 to 20, in an about-face from the previous two elections, when Republicans were higher. Archibald says that may be because Democratic candidates are on the defensive this year.

PROBE INDICATES "SMEAR" TACTICS DO NOT WIN POLITICAL CAMPAIGNS

(By Richard H. Stewart)

WASHINGTON.—Political smear tactics are proving to be poor campaign strategy, according to a preliminary analysis of the Fair Campaign Practices Committee.

The independent organization, formed in 1954, estimates that 84 percent of the candidates who filed valid complaints against their opponents' unfair practices won election this year.

The trend has been growing against smear campaigns in recent years. In 1966, a survey showed that 68 percent of those who filed valid complaints won election, and two years ago the figure jumped to 81 percent.

One of the more questionable advertisements sponsored by the Republican-oriented Committee for a Responsible Congress was directed against eight Democratic candidates for the Senate. Only one, Joseph Tydings of Maryland, lost.

When the Fair Practices Committee contacted the eight Republican candidates about their support for the advertisement, they repudiated it. The advertisement was created in Washington.

The committee will issue a final analysis of its findings later this year.

The preliminary analysis indicates that television is the medium in which unfair campaign advertisements are growing.

A spokesman for the committee said the complaints this year involving television advertising were four times as large as those from previous years.

REMARKS OF THE PRESIDENT TO THE U.S. DEPARTMENT OF AGRICULTURE CORN BLIGHT CONFERENCE

Mr. DOLE. Mr. President, yesterday, December 17, 1970, President Nixon addressed a group of distinguished farmers at the U.S. Department of Agriculture research facility at Beltsville, Md. The farmers were attending a conference on the problems and solution to the corn blight that is plaguing this crop, and it was fitting that President Nixon took time to speak to this group.

More important, however, was the content of the President's remarks in which he recognized the progress agriculture has made in efficient production capabilities that far exceed any other segment of our economy. He stressed the fact that the American housewife through these efficiencies is able to serve her family better food at a smaller percentage of her spendable income than ever before in the history of this Nation.

President Nixon also commended Secretary of Agriculture Hardin for his efforts on behalf of the farmers and indicated the bipartisanship of the recently passed farm legislation.

Mr. President, I ask unanimous consent that the text of the President's remarks be placed in the RECORD so the Nation may know of his recognition of American agriculture and his expression of thanks for its efforts.

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

REMARKS OF THE PRESIDENT

Mr. Secretary, and all of the distinguished guests here at Beltsville:

In checking the record I found that this is the first visit that a President of the United States has made to Beltsville since President Eisenhower was here in 1954. And consequently, I feel particularly privileged to have the opportunity to see this very famous agricultural research station and also to meet, at the same time, with a group of distinguished farm leaders from across the nation on a subject of enormous importance, not only to the people of the United States in terms of corn and its production—we know what that means—but also, in terms of what it will do for people throughout the world who might have a similar problem and where we, of course, have been so generous in sharing our knowledge with others in terms of helping them with agricultural problems.

I am going to take, I understand, a brief tour of the facility after our remarks here. But I thought that this particular occasion was one that gave me an opportunity to say some things that I have been wanting to say to leaders in the agricultural community about the Department of Agriculture, about our Secretary of Agriculture and his colleagues and also, about the American farmer, the agricultural community generally, and what we in America, all of us, owe to American agriculture.

First, with regard to the Secretary of Agriculture, he has spoken generously about the support he has had from the President and the White House on the policies that he has recommended. When he took this position I told him that it was very difficult to be a popular Secretary of Agriculture. I told him that Congressmen and Senators, Democrats and Republicans, for years got elected by running against the Secretary of Agriculture; and that I hoped he avoided that.

There are many interpretations of the last elections, but I don't know anybody that ran against Secretary Hardin. So, I congratulate him on that particular point.

I want to say, too, though, that when I did appoint him, I wanted a man who would speak for the farmers and for American agriculture to the White House rather than the other way around. He has done that. Beneath that very pleasant and disarming exterior of his is a very strong and persuasive and determined mind. And in these matters that come before us and the high decisions that have to be made at the White House with the legislative leaders, in the Cabinet, on the budget and other matters, I can assure you that agriculture has a very strong advocate.

I have appreciated that fact, because I do not want those who simply are there to parrot the views that we may have developed in advance. I want those there that will represent this community and represent it well. He has done that.

I don't mean to suggest by that that all of the decisions that we have made in this Administration meet with unanimous approval by the leaders of American agriculture. I found that when we were trying to develop a Farm Bill this year that it was very difficult to find any common ground of agreement.

There were certainly no partisan lines that divided Democrats from Republicans on agricultural issues. As you know, generally speaking, it is a question of the corn people and the wheat people and the cotton people and the peanut people and the people that don't have subsidies and the people that do and so on down the line.

And so the problem is to find a piece of farm legislation that is in the best interests of American agriculture and, at the same time, will serve the interests of the country generally.

This Farm Bill, I would have to candidly admit, did not meet with as much approval from all of the various agriculture organizations as I would like. And I read the publications. I know what some have been saying about the farm legislation. The Secretary has told me a little about it, too.

I do want you to know, however, we do think it is an improvement. We do think it is a good start in the right direction. We hope you will work with us in implementing the new farm legislation and we are open to new suggestions as to how we can do better in the future. This is said to you quite candidly and quite honestly, for a reason that I will now develop with regard to what the American people owe to American agriculture generally.

Some of you may have noted that in a recent speech to the National Association of Manufacturers in New York I referred to a new Commission on Productivity that we have set up in the United States. This Commission has not received as much publicity as some more spectacular organizations of

that type might receive, but it is a very high powered group, high powered in the sense that it has representatives of labor, of management, of the general public, of the scientific community and it comes from all over the United States.

That Commission has had several meetings since I established it several months ago. And as I sat there with these top leaders of American industry and American labor and the American academic community, American agriculture was also represented, a very significant point was made, not only in the first meeting, but in the second and in the third. On every occasion, it is this: That that area of the American economy that has had the greatest growth in productivity and that has the highest productivity per man hour, any way you want to rate it, is American agriculture.

The point being made that we think of industry and this is a great industrial country, we think of services and we do have many areas where we have led the world in the field of services, but whether it is in the field of industry or in the field of services, there is nothing in the United States that even approaches the growth in productivity of American agriculture.

This is a great record. It is a record that is due, of course, to the fact that we have had good people on the land, farmers. A farmer these days, of course, is much more than a farmer. He is a scientist, he is a technician, he is a businessman, he is a man who knows how to market, he has to be one who can be able to handle this complex business that we call agri-business in many parts of the country. But we also owe a very great debt to those in the Department of Agriculture, those that have given their lives to this area of research, this area of developing the capability to produce more from the land and to produce it at less cost and with less people.

So, once I heard this particular fact brought home, that American agriculture was that area of the American economy that had had the greatest growth in productivity and that was the most productive area of any part of this nation, I then checked a little further. And I had been hearing and some of you have been reading, not in the agricultural press, but in the press generally, about the costs of our farm program.

And so I found that when we checked to see the percent of family income that goes into food, that at the present time, the American housewife pays a smaller percentage of her family income for food in America than she has ever paid in our history; and second, that the American housewife in this country, that is by far the best fed country in the world in terms of what the American people have available on their table and in their stores and through their markets, but in spite of that fact, that the American housewife today pays a smaller percentage of her family income for food than the housewife in any other country of the world.

What does this mean? It means that despite all the problems that we hear about American agriculture, despite the condemnation we hear of farm programs, that American agriculture, and particularly the American farmer, must be doing something right. It means also that the nation owes American agriculture a very great debt, a very great debt which perhaps has not been adequately reflected in agricultural income.

I am not happy about the fact that agricultural income has not been at the rates that it should have been over these past few years. I think that the farmer, as I said during the campaign of 1968 and in campaigns before that, deserves a fair share of the nation's increasing wealth and its increasing productivity, due to the fact that American agriculture is so productive.

But I do think that it is important that representing all of the American people in this Christmas season, that I am able to say to the farmers of America, through this very distinguished group, that we are aware of the great debt that we owe to our farmers. We are aware of the great debt we owe to agriculture. We are aware of the great debt that we owe to all of those who work in this particular field.

We are the best fed people, but at the lowest cost, the lowest percentage of our income, of any country in the world. And for that, we are most grateful.

That brings me finally to another point that particularly occurs since I met today with the British Prime Minister. And we talked about problems around the world. One of the problems we discussed was the problem of hunger in the world. We have problems of hunger in this country, as you are aware, and there are problems of hunger in all countries, rich and poor, around the world.

But the problems of hunger in this country, of course, are, in terms of magnitude, nothing compared to what the problems are in countries that simply do not have the enormous productivity that we have.

And so, as we look around the world and as we think of the future of the world and what is going to happen, we realize how much American agriculture can contribute. I speak not simply of those foods that we may export to other countries, and we are very interested in those export markets. Believe me, nobody is fighting as hard for those markets as Cliff Hardin is fighting. After he returns from each trip, he goes over to the State Department and then he comes to the White House. Sometimes he wins, I might say. We hope he wins a little more often in the future. But, be that as it may, I think that we should recognize that in terms of the long-range prospect, that American agriculture is doing more, far more, than simply seeing to it that we in America have the benefit of an enormously rich society in terms of what we can put on our tables at Christmas time or Thanksgiving or, for that matter, any day of the week, we owe it to the productivity of American agriculture, but also in terms of the future of the world, what we have learned in America and the knowledge that we are able to share with other people may make a difference in these next 10, 15, 25 years, a difference as to whether millions of people all over the world will grow up without enough to eat at all or whether they may have a better chance, not as good a chance as our people have, but at least a better chance than they would otherwise have to survive.

And I leave on that particular note. I leave on it because I think it is well for us in this Christmas season to recognize that this is one time of the year when we naturally think of our own private concerns and the problems that we have of meeting our family budgets and the like, but also it is a time when we think of what we can do and what we are doing to help other people, to help other people in the United States, and what we are doing to help other people in this world, to make it a more peaceful world, to make it a better world, to make it a world in which children don't go hungry, not here, not any place else.

That is an ideal people could never dream of before. It is an ideal that perhaps we can reach for now. But if we can reach for it, we will be standing on a little bit higher plateau, perhaps a considerably higher plateau from which to reach, because American agriculture has built that plateau, built it by its productivity, by its devotion, by its dedication in developing the most productive economy in terms of agriculture ever in the history of the world, let alone the history of the United States.

And so, I express my deep appreciation to the representatives of agriculture for coming to this particular meeting, dealing with this problem, which is only a small part of the problem in a way, a small part of the problem, but symbolizes it all.

There was a time, I suppose not 10, maybe not 25 years ago, we should say, there was a time 25 years ago when corn blight came we might not have had enough in storage to take up the slack, but beyond that, we might not have developed the capability to deal with the problem.

But now we not only have the amount in storage to take up the gap, but we also, as I understand, due to the enormous facilities of research and the brains and the overtime and genius that has gone into it, we are finding an answer to this problem.

And that means that in the future we will be able to deal with it more effectively. It means also we can share this knowledge with other people throughout the world.

So with that, thank you to all the farmers of America and through you, to all the farmers of America, thank you for making it possible for us in America to have a much better table on Christmas Day for that Christmas dinner, or that Christmas lunch, whichever it happens to be, and to have it at lower cost in terms of our total income than we have ever had it before and at lower cost in terms of our total income than any other people in the world can enjoy.

Thank you.

THE CURIOUS ROLE OF THE RETURNING VIETNAM VETERANS

Mr. DOLE. Mr. President, the Senate has spent considerable time debating U.S. policy in Indochina over the past years. Amid considerable disagreement on many issues, there has been one point of substantial consensus, and that is the fact of the gallantry and personal courage of the American military personnel who serve in that theater of combat. In every debate in Congress, although severe criticism has been leveled against policy decision and the overall conduct of the war, Members of Congress have repeatedly paid tribute to the individuals—many of them draftees—who are serving their country in the face of daily peril, discomfort, and separation from loved ones.

However, there is a substantial difference in public attitudes toward this war and those who serve in it compared with past conflicts involving the United States.

On December 4, John Chancellor of NBC News discussed the "Curious Role of the Returning Vietnam Veterans." His commentary is thought-provoking and conscious-stirring. It points out an unsettled truth, and I believe it merits widespread consideration by Members of Congress and the public. Mr. President, I ask unanimous consent that Mr. Chancellor's commentary be printed in the RECORD.

CURIOUS ROLE OF THE RETURNING VIETNAM VETERANS

(By John Chancellor, on NBC Radio's "Emphasis")

Among the lamentations we can express about the Vietnam War is the curious role of the returned veteran of that conflict; a sort of forgotten man in our society. Out of the longest war we have ever fought have come no national heroes and no songs of praise; and a feeling among some who return that it may all have been in vain.

I don't usually read the mail over the radio, but I got a letter the other day which I found quite moving, and I would like to

read it now. It begins, "Last night on NBC Nightly News you praised the Marine Corps. It was the first time I have heard that kind of praise since my son served in Vietnam in 1968 with the Marines. He was wounded badly twice and had malaria twice and he got a lot of medals. He didn't have to go, he could have gone to college like all of his friends were (doing). I didn't want him to go." The letter continues: "From what he told me the Marines he was with never killed any civilians. They had to give two or three days warning to the villagers before they were able to go into a village. He actually played cards with the old village ladies. The physical hardships he endured were unbelievable. Once, they went without food for three days. When he came home it was not (as) the victorious hero, as after World War II. I could sense he felt a certain antagonism among some people toward what he did."

"After the Kent State affair," the letter continues, "he argued with his friends about the rightness of our being in Vietnam. They couldn't see his side, and one night I heard him sobbing and crying out for his lost buddies. He kept saying over and over, 'It was all in vain.' His father and I spent hours calming him down, telling him it was not in vain. One of the things he told us then (was) that his friends who were killed in Vietnam thought (ours) was the greatest country in the world."

And the letter ends this way: "I will never forget that night because somehow we have not honored their sacrifice enough. If you can ever do a program about the boys who died in Vietnam without glorifying war, and dedicate it to the Marines, it would be a great public service. Sincerely, a mother."

Whether you are for the war or against it, this lady has pointed out something important: We have not, in fact, honored enough the sacrifice of hundreds of thousands of young Americans who didn't want to go but went anyway, who served with valor and who didn't go crazy and shoot civilians.

Many of those were against the war, just as many who serve today in Vietnam are against the war. And so, perhaps, a special sort of monument should be put up to honor these veterans. It is one thing to be shot at in a popular war; how much worse to be shot at in an unpopular one. And the worst thing of all is to come home to find it may have been all in vain.

PRIVATE AMERICAN INVESTMENTS OVERSEAS ARE NOT FOREIGN AID

Mr. HART. Mr. President, the Nixon administration has said the main thrust of the foreign aid program must come from the private sector. That policy is being promoted vigorously at home and abroad.

In my view, private American investments overseas are not foreign aid. Private investment may speed up a country's economic development, but it receives a high return in exchange. It is not motivated by charity; it is motivated by a desire to earn profits, and that is not to be criticized.

Taking the position that the activities of American companies overseas are part of the overall American aid program may be doing the United States more harm than good in its relationship with developing nations. The slogan "trade, not aid" may fool the American people, but the leaders of developing nations may find it insulting.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a column by L. F. Goodstadt, titled "Asia, Inc.," discussing this subject. The column appeared in the November 7, 1970, issue of the Far Eastern Economic Review, a conservative English-language weekly, published in Hong Kong.

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

ASIA, INC.

(By L. F. Goodstadt)

With men like Spiro Agnew at the top, the United States does not have to work very hard at creating an unfavourable national image abroad. But why does the Nixon administration as a whole make such an effort to make their country unpopular overseas? A couple of recent official statements deserve much wider publicity than they have received so far because of the current foot-in-mouth posture typical of Washington today.

At the end of last month, the chairman of the Presidential Task Force on International Development decided to speak his mind on aid, and a miserable performance he made of selling America's new policies in this field. He made reasonable sense on making greater use of multilateral agencies to reduce the irritation caused by some US aid missions in developing nations. But he went on to say: "The main thrust of any foreign assistance programme can and should come from the private sector."

He must know as well as the underdeveloped world that the overwhelming bulk of international companies investing abroad are not interested in the developing nations (except where they can get their hands on such commodities as oil). In any case, private investment is not aid. Foreign capital has a valuable role to play in speeding up economic growth but to pretend it is based on anything except a hunger for greater profits than can be made at home is unashamed hypocrisy.

The chairman questioned "whether we belong in any country that does not provide the climate and incentives needed to encourage the role of private enterprise". This remark sounded like Washington waving a big stick. Between the lines, the developing economies will naturally read the message: make our American companies happy or run the risk of no more US handouts. Intentionally or not, this sort of attitude smacks of gross interference with other nations' internal policies. Anyway, South America, the profitable preserve of US business for so long, is no model of how private enterprise brings prosperity for all.

To add insult to injury, the all-American chairman stated the day had now arrived when in providing aid, the old "teacher-student relationship" could be dropped. Even if Washington has viewed poor countries in this patronising way in the past, why reveal such arrogance in these brutal terms today?

Another chairman, this time of the Council of Economic Advisers, also got into the act last month. He was painting a rosy picture of the way inflation is being tackled. Fair enough. The predictions that by the end of 1970 the US dollar would be under heavy attack once again have proved incorrect. But the basic weakness of the American economy remains, as this particular American spokesman brought out. Any significant inflation in the US sets off an overwhelming demand for imports. He quoted 1968 when the economy, capable of a real growth rate of 4%, expanded by 9% in money terms. This internal overheating pushed the import bill up by a massive 23%. In simple terms, US industry has lost its competitive edge. Any serious strain on its productive capacity pushes costs up so fast that the flood of foreign goods cannot be held back.

The chairman was not telling the outside world anything it had not realised long before. But the dangerous passage in his speech was his attempt to explain away America's present weakness by talking of the advantages in export market enjoyed by countries which have devalued in recent years. The implication seemed plain enough. Authoritative voices in Washington were willing to confess—however discreetly—the US dollar is overvalued. The only remedy for this situation is calculated to send cold shivers down the spines of the international financial community—devaluation of the dollar.

From the rest of the speech, this possibility was not a serious prospect in the minds of the Council of Economic Advisers. But a clumsier attempt to pass the buck for the US balance of payments crisis can hardly be imagined.

The general lack of finesse in top-level pronouncements on US aid and trade highlights the single biggest threat to the American economy today: the continuing failure of the Nixon administration to seize firm and effective control of the nation's economic trends. Given the dominant role of the US in the world's business life, this inability to direct American industry and commerce rapidly on to a healthier course must continue to cause serious concern overseas.

GRAZING FEES ON PUBLIC LANDS

Mr. CANNON. Mr. President, last Friday the Departments of Agriculture and Interior raised grazing fees on public lands by 18 to 20 cents. In my State of Nevada, 49 percent of the grazing ranges are under the BLM's management, and thus affected by this increase. I will have more to say regarding the poor economics of this move soon, when I introduce legislation that would bring sense to the fees structure. However, I want to point up the lack of coordination prevalent within the executive department today that has resulted in an erosion of confidence in the Federal Government among my constituents back home who are part of the domestic livestock industry.

The President of the United States says he is against rapidly rising food prices, but the bureaucrats raise grazing fees by up to nearly 50 percent thus making certain higher market prices for beef and lamb next year if the stockmen are to survive.

The President says he is against the rising unemployment that is plaguing our country, but the departments raise grazing fees and throw thousands of industrious small ranchers into potential bankruptcy.

The President of the United States says he is against loss of confidence in the Government's word, but his agents raise grazing fees by an amount more than double the so-called Udall formula of fees increases.

Mr. President, I need not remind this body that we are deep into a time of economic trouble. Rising prices make doubly difficult the plight of the rising numbers of unemployed. We need more than verbal assurances that prosperity lies just around the corner. We do not need bureaucratic decrees that make the economic situation worse, and that are contradictory to previous statements. We do not need a grazing fees increase at this time.

I am renewing my request that the administration retain the grazing fees structure at the present level, at least until the economy returns to a state of expansion. In so doing we would demonstrate to the people that their Government works for their interests and that it stands by its promises.

FRUSTRATION

Mr. BAKER. Mr. President, "frustration" is a difficult word to define. Authors such as Tolstoi, Lawrence, and Bronte have attempted to capture its meaning; but it cannot be explained—it can only be felt.

Those most familiar with this emotion today are the wives and families of those held prisoner in North Vietnam. Frustration to them means hoping some miracle will free their husbands.

It means wondering if their fathers are being maltreated.

It means wishing they knew if their loved ones were even alive.

The intensity of their feeling cannot be measured. It is theirs alone. And it is needless.

Needless because the North Vietnamese could alleviate the greatest doubt by a single act of human decency. They could, at the very least, publish the names of those they hold. This would not solve the problem. It is only a beginning. But it would solve the anguish of hundreds of Americans waiting at home for news—any news—of the fate of these men.

VIETNAMIZATION'S BITTER FRUIT

Mr. CHURCH. Mr. President, the exceptionally able columnist for the New York Times, Tom Wicker, has written a penetrating article on the latest twist in our Vietnamization policy. Mr. Wicker correctly points out that recent bombing raids over North Vietnam indicate a new policy by the United States. Yet, like the Johnson administration, the American people are not being candidly informed about this alteration in U.S. policy. The controversy centers on the 1968 "understandings" between the United States and the North Vietnamese.

As Mr. Wicker analyzes this development:

> The question is not, therefore, whether the Administration has stated a new policy—it has; not whether it is preparing a public position for the moment when it may decide to resume the bombings—that obviously is what it is doing. The question is why, since however obstreperous it may be otherwise, Hanoi has not seriously violated the 1968 "understanding" except perhaps in the matter of reconnaissance planes.
>
> But American troop withdrawals have not pushed Hanoi to make negotiating concessions, either, as it was claimed they would; insisted, after two years of it, Mr. Nixon is approaching exposure to the inherent weakness of his Vietnamization policy—the possibility that American troop strength may be reduced enough to invite devastating attack that could be prevented or defeated only by air power.
>
> If the pursuit of Vietnamization comes to that, renewed bombing would be the bitter fruit of Richard Nixon's own policy decisions. Not truth, half-truth or untruth could justify it by the "understanding" of 1968.

I ask unanimous consent that the full text of Tom Wicker's article be printed in the RECORD.

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

VIETNAMIZATION'S BITTER FRUIT

(By Tom Wicker)

WASHINGTON, December 16.—Whatever else it may be doing with its recent flurry of statements designed to justify a substantial resumption of the bombing of North Vietnam, the Administration is flirting with the same tactics that opened President Johnson's fatal credibility gap—the half-truth, the untruth and anything but the truth.

At Defense Secretary Laird's news conference this week, for instance, he read a background statement of Oct. 31, 1968, from an unnamed Pentagon official who was, in fact, Clark Clifford, then the Secretary: "If the good faith which was attached to Hanoi's effort to get substantive talks disintegrates or disappears, and if it is ascertained that they are not proceeding in good faith in their negotiations and that efforts are being made to violate the good faith understandings with movements of one kind or another, then the decision could be made" to resume bombing.

Mr. Laird used this statement, without any further quotation, to bolster his contention that "there has been no basic change in policy," despite recent Administration statements. Those statements include, notably, Mr. Nixon's news-conference warning that he would retaliate with bombing for unspecified increases in North Vietnamese military activity that might threaten American troops, and Mr. Laird's argument that renewed bombing would be justified unless Hanoi made the Paris negotiations more productive.

Mr. Clifford and other officials of the Johnson and Nixon Administrations have stated many times that the "understanding" of late 1968 was that the United States would halt the bombing of the North if the Paris talks were expanded to include Saigon and the N.L.F., if the North Vietnamese refrained from major troop infiltrations across the demilitarized zone, and if they and their Vietcong allies stopped shelling and rocketing South Vietnamese cities. The Nixon Administration never stated any other view of the "understanding" until recent weeks, although it was also asserted that an American right to fly reconnaissance missions over North Vietnam was included.

After Mr. Laird's claim of "no basic change," Mr. Clifford stated flatly that he had understood that "the talks were to be conducted so long as the other side proceeded in good faith. And the test of their good faith was that they would not violate the DMZ and would not shell the cities." If that is so, and Mr. Clifford was one of those most involved in the "understanding," then Mr. Laird's advance justification for renewed bombing (lack of progress in the talks) is not just a change but a major change of policy. It also represents at least a partial return to the vain notion that Hanoi can be threatened or bombed into concessions that it has never, under the heaviest blows, been willing to make.

Mr. Nixon's stated "understanding" that certain North Vietnamese military movements, supply concentrations, etc., would justify his bombing the North is an ever more remarkable change of policy.

In effect, that is a restatement of the almost forgotten "San Antonio formula," under which Mr. Johnson held out a standing offer to stop the bombing in return for "productive discussion" and said he would "assume" that North Vietnam would not take military advantage of such a bombing cessation. Hanoi never agreed to that formula, and the "understanding" of 1968, according to every authoritative version of it, specifically excluded any such "assumption" except for those concerning the cities, the DMZ and—in the American view—reconnaissance planes.

The question is not, therefore, whether the Administration has stated a new policy—it has; nor whether it is preparing a public position for the moment when it may decide to resume the bombings—that obviously is what it is doing. The question is why, since however obstreperous it may be otherwise, Hanoi has not seriously violated the 1968 "understanding" except perhaps in the matter of reconnaissance planes.

But American troop withdrawals have not pushed Hanoi to make negotiating concessions, either, as it was claimed they would; instead, after two years of it, Mr. Nixon is approaching exposure to the inherent weakness of his Vietnamization policy—the possibility that American troop strength may be reduced enough to invite devastating attack that could be prevented or defeated only by air power.

If the pursuit of Vietnamization comes to that, renewed bombing would be the bitter fruit of Richard Nixon's own policy decisions. Not truth, half-truth or untruth could justify it by the "understanding" of 1968.

SUPERSONIC TRANSPORT

Mr. CANNON. Mr. President, we have heard many pros and cons recently in the heated debate on the merits of the SST. Many of the claims have generated more heat than light.

A letter to the editor of the New York Times, dated December 2, 1970, by Mr. James J. Harford, executive secretary of the American Institute of Aeronautics and Astronautics, sheds some light on some of the issues involved and I ask unanimous consent that it be printed at this point in the RECORD.

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

SUPERSONIC TRANSPORT: CONJURED AND REAL

To the Editor:

The Times's Dec. 1 editorial accuses SST advocates of "making desperate efforts to assure approval" of the appropriation before the Senate on Dec. 2.

I find "desperate" too soft a word for The Times's editorial which marvels at William Magruder's audacity in accusing "leading economists" of not understanding aviation economics but offers no evidence to contradict him. Is it a fact or isn't it that you must go back to the DC-3 to find a major U.S. commercial airplane not developed largely from a base of Government funding? The only thing really new about the Government funding of SST is that Boeing will return the investment in royalties.

You accuse me of "breathtaking assertions," such as my statement that flights at 60,000 feet will be smooth, and you assert that "air traffic controllers report that the SR-71 . . . has already encountered severe clear air turbulence at that altitude," as if this contradicted my statement. There is clear air turbulence at SST flight levels, and the SST will be designed to withstand it just as today's jets do at lower altitudes.

You assert that "while climbing from zero to 1,500 feet, the SST will make ear-shattering noise louder than anything today's jets produce" but you fail to make the connection between the fact that, because it climbs out faster, this noise reaches the surrounding community with less intensity than jets give today.

You assert that "cloudbursts do not put water vapor into the stratosphere." Simply false. I cited at least 3,000 cloudbursts per day—each depositing as much water vapor as the whole SST fleet—but I was very con-

servative. A reputable geophysics handbook estimates 50,000 thunderstorms a day, many extending into the lower stratosphere.

Will you accept as an objective spokesman for environmentalists Dr. William W. Kellogg, chairman of M.I.T.'s Working Group on Climate Effects? He states: "Nowhere have we indicated that we believe the SST development should be held up or delayed pending the results" of studies on the SST's effect on the stratosphere.

Finally, you say the "airlines are running away from it." Every airline president involved has given his strong support in writing for the SST prototype development. Why don't you run their position rather than speak for them irresponsibly?

In general, the SST that The Times and critics like Senator Proxmire have constantly conjured up, any conscientious person would be against. But those who have looked carefully into the facts do not oppose the *real* SST.

JAMES J. HARFORD,
Executive Secretary, American Institute of Aeronautics and Astronautics.

NEW YORK, December 2, 1970.

AMERICAN BAR ASSOCIATION POSITION ON THE GENOCIDE CONVENTION

Mr. THURMOND. Mr. President, the International Convention on the Prevention and Punishment of the Crime of Genocide has been reported favorably to this body by the Committee on Foreign Relations. Although every man finds the concept of genocide abhorrent, there are grave reservations whether it ought to be made a crime, as such, subject to international jurisdiction. Some of the best legal minds of this generation have repeatedly pointed out the threat which this conventon poses toward our liberties and our system of justice.

Prominent among the opponents of this convention has been the American Bar Association, which has gone on record in 1949 and as recently as 1970 with resolutions presented in the ABA's House of Delegates. I therefore find it regrettable that the ABA was not allowed to testify before the Foreign Relations Committee on this matter. I quote from the report issued by the committee on December 8:

A request by the American Bar Association to be heard on this convention was received under date of September 17 and this was considered at a meeting on November 23. The committee took note of the fact that the House of Delegates of the American Bar Association in February rejected by a vote of 130 to 126 a motion to reverse its opposition to ratification of the Genocide Convention and therefore upheld the 1949 resolution presented to the committee at the 1950 hearings which are available for the information of the Senate. The committee then voted, 10–2, to report the convention favorably to the Senate, subject to the understandings and the declaration.

In other words, even though the most distinguished legal group in the United States asked to present its views on this matter to the Senate, the committee held that a statement made 20 years ago was sufficient to represent the ABA's position.

I do not know what additional light the ABA would have presented, if it had been allowed to do so, but I certainly believe that one's understanding of issues deepens over the years, and it would have been useful to have these added insights and perceptions on hand. I assure the Senate that when this matter comes before us it will be thoroughly explored and discussed in detail for as long as necessary, and it will not be passed over in such summary fashion.

Fortunately, however, the Senate still has an opportunity to learn something of the ABA's views on the treaty because of a recent article in the ABA Journal entitled, "Pitfalls of the Genocide Convention," by Orie L. Phillips and Eberhard P. Deutsch, both of them outstanding lawyers, well-known in the fields of constitutional and international law.

Mr. President, I ask unanimous consent that this article from the ABA Journal, July, 1970, be printed in the RECORD.

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

PITFALLS OF THE GENOCIDE CONVENTION

(By Orie L. Phillips and Eberhard P. Deutsch)

(Everyone is against genocide, but the ratification of the Genocide Convention by the United States would raise thorny and serious questions and might subject our citizens to trials in which our constitutional safeguards are not observed. Concurrence in the lofty ideals that engender the promotion of moral issues should not substitute the ephemeral tissue of those ideals for the enduring fiber of constitutional limitations)

On September 8, 1949, the American Bar Association, through its House of Delegates, expressed the sense of the Association "that the conscience of America like that of the civilized world revolts against Genocide[1] . . .; that such acts are contrary to the moral law and are abhorrent to all who have a proper and decent regard for the dignity of human beings, regardless of the national, ethnical, racial, religious or political groups to which they belong; [and] that Genocide as thus understood should have the constant opposition of the government of the United States and of all of its people".

The House nevertheless placed the Association on record as opposing approval by the Senate of the United States of the Convention on the Prevention and Punishment of the Crime of Genocide "as submitted" to the Senate for its advice and consent by President Truman less than three months earlier—on June 16.[2]

At its Midyear Meeting in Atlanta on February 23 of this year, the House reaffirmed the position taken in 1949, voting down by a narrow margin a recommendation for reversal of that position and for unreserved approval of the convention.

The authors of this article are in complete accord with both the declaration of and the conclusion reached by the Association. This article is written as a record of the background of that position, which, in the last analysis, is simply that wholehearted concurrence in the lofty ideals that engender promotion of moral issues should not be permitted to substitute the ephemeral tissue of those ideals for the enduring fiber of constitutional limitations.

The Genocide Convention originated in the United Nations. On December 11, 1946, the General Assembly adopted a declaration to the effect that genocide "is contrary to moral law and to the spirit and aims of the United Nations"; that 'many instances . . . of genocide have occurred when racial, religious, *political* and other groups have been destroyed, entirely or in part"; and that genocide is a crime, whether it "is committed on religious, racial, *political* or any other grounds" (emphasis supplied). The declaration invited "the Member States to enact the necessary legislation for the prevention and punishment of this crime".

The United States joined in this declaration. Standing foremost as a world leader in the protection of individual rights, she could do no less. The authors of this article are in complete and unequivocal accord with the following statement made by the American Bar Association's Section of Individual Rights and Responsibilities in its report on the Genocide Convention submitted to the House of Delegates in February of this year:

. . . The United States, which was founded on the basis of protest against government excesses, and which grew great in substantial measure because it was a haven and the hope for oppressed persons everywhere, should be in the lead in joining in the declaration of revulsion at the organized effort to eliminate a whole people during World War II, and of determination that such an effort should not be undertaken ever again.

But the conviction of the authors is equally firm that having joined in such a declaration as to a matter which lies ultimately within the domestic sphere of each of the world's nations, the United States has gone far enough. She should not, in our opinion, join in a convention by which she would commit herself in advance to protect the people of other nations against their own governments. Nor should she agree that such other countries may determine what is to be deemed to be genocide within the borders of the United States and invite them in advance, in the words of Article VIII of the Genocide Convention, to take through "the competent organs of the United Nations, such action under the Charter of the United Nations as they consider appropriate" for the "suppression" thereof.

The Section report itself makes this point abundantly clear. It is stated therein that under Article VIII of the Genocide Convention:

. . . Even if the complaint involved alleged prohibited action by one country against an ethnic group within its own country . . . the claim that the United Nations could not consider the matter because it concerned the domestic jurisdiction of one state . . . would be foreclosed. The Secretary Council, or the General Assembly, or the Economic and Social Council would all be authorized to hear the complaint. In appropriate cases, where the complaint was borne out by the facts, the United Nations organs could recommend or decide on measures to be taken. . . .

TREATIES SHOULD NOT BE USED FOR INTERNAL GOVERNMENT

It is submitted that treaties with other nations are not the proper constitutional means for the government of the people of the United States in their internal affairs, which should continue to be regulated by our own federal, state and local legislative bodies through enactments that have their foundation in our own constitutional processes.

We subscribe wholeheartedly to the statement made by John Foster Dulles as Secretary of State, testifying before a subcommittee of the Senate Judiciary Committee on a proposed constitutional amendment to limit the effect of treaties as internal law within the United States:

I do not believe that treaties should, or lawfully can, be used as a device to circumvent the constitutional procedures established in relation to what are essentially matters of domestic concern. [The United States should] favor methods of persuasion, education and example rather than formal undertakings. . . .

Footnotes at end of article.

We do not ourselves look upon a treaty as the means which we would now select as the proper and most effective way to spread throughout the world the goals of human liberty to which this Nation has been dedicated since its inception.

The authors of this article do not agree with the extravagant statement in the Section report that "in terms of a threat to international peace and security, the occurrence of genocide anywhere in the world is as much a matter of international concern as, for example, the spread of nuclear weapons"; or that "when some state—or, as in this case, 74 states—consider a matter to be of sufficient concern to make a treaty about it, then realistically it is of international concern."

This is the old bootstrap doctrine by which a domestic issue, not subject as such to regulation by treaty, can be transmuted, by the very prohibited act of making it the subject of a treaty, into the arena of international affairs subject to regulation by treaty. It is the same doctrine that gave rise to the 1950 dictum by the Department of State that "there is no longer any distinction between 'domestic' and 'foreign' affairs." [3]

If the limitations contained in the Contsitution of the United States are subject to circumvention by this jurisprudential sorcery, the matter becomes one of broad constitutional policy rather than of strict constitutional law. Our constitutional philosophy should not be so impaired by transplanting matters within our domestic jurisdiction into the international forum, subject to legislation by treaty and adjudication by international tribunals.

GENOCIDE BY GOVERNMENT IS NOT IN THE CONVENTION

There can really be no question, as stated in the Section report, that "the crimes which gave rise to the Genocide Convention—mass murder of Jews . . . by the Nazis was, of course, done with the encouragement and indeed at the direction of the government of Germany". It is the position of the authors of this article that in order for genocide to be an international crime, and therefore a matter of international concern appropriately the subject of a treaty, it must, by definition, be committed with the complicity of the government concerned, not merely by individuals.

When the convention was being formulated, the representatives of the United States, backed by those of other Western nations, sought as a *sine qua non* to have genocide defined as having been committed "with the complicity of government", because its "delegation felt in fact that genocide could not be an international crime unless a government participated in its perpetration". [4]

This demand was rejected, and under Article IV of the convention states-parties are required merely to enact legislation providing punishment for "persons committing genocide" and requiring the trial of "persons charged with genocide", whether they are "public officials or private individuals". Instead of including government complicity as an element of the offense, Article VIII of the convention permits "the competent organs of the United Nations" to interfere in the domestic affairs of member nations by hearing complaints as to the conduct of their individual citizens, and to "take such action . . . as they consider appropriate" against them.

The type of problem with which the United States might be faced in this regard, if it became a party to the Genocide Convention, is illustrated graphically and startlingly by a recent news item in *Time* of December 12, 1969, which reported that a "San Francisco lawyer who represents the [Black] Panthers . . . revealed plans to go before the United Nations and charge the United States with 'genocide' against the Panthers".

VAGUE LANGUAGE CAUSES PROBLEMS

Another constitutional question of some significance arises from the vagueness of certain provisions of the convention. It provides in Article II, for instance, that genocide consists of certain "acts committed with intent to destroy in whole or in part a national ethnical, racial or religious group, as such" by "(b) causing serious . . . mental harm to members of the group".

There would seem to be grave doubt as to whether so vague a provision as that of "mental harm" could be cured by implementing legislation such as, for example, that proposed by the Section of Individual Rights and Responsibilities in an annex to its report on the convention, which refers to conduct "with the intent to destroy" and which "causes serious harm to the . . . mind". Even the February 19, 1970, message of the Persident to the Senate, with its attached letter from the Secretary of State, requesting advice and consent to ratification, recommends that this be done with an "understanding" that the words "mental harm" be construed as having a clarifying narrow meaning.

Language so broad and vague, if not unconstitutional in legislation defining crime, could well have been held to characterize racial segregation practices prior to 1954 as genocide. In *Brown* v. *Board of Education*, 347 U.S. 483, the Supreme Court held expressly that separation of Negro children "from others of similar age and qualifications solely because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone . . . [and] has a tendency to [retard their] education and mental development".

POLITICAL GROUPS REMOVED FROM THE CONVENTION

Just as the United States and her political allies were unable to get "complicity of government" into the definition of genocide, they also acquiesced at the insistence of the Communist bloc in the omission of "political" from the categories of groups as to which genocide is to be prohibited.

The original United Nations declaration denounced genocide whether "committed on religious, racial, *political* or any other grounds" (emphasis added). When this declaration was being converted into the convention, the Communist nations insisted on omission of "political" from the listed categories, and the United States capitulated. None of the Communist nations, therefore, can be charged under the convention with committing genocide by inflicting intolerable "conditions of life" on a political group and seeking to destroy its members.

When this point was raised in the House of Delegates last February, Nicholas de B. Katzenbach, a former Under Secretary of State of the United States said, in effect, that omission of "political" from the convention was simply a "trade" in the course of compromise between the Communist and Western nations by which "we succeeded in getting 'ethnical' included among the groups in place of 'political' ". Considering that "ethnical" in its ordinary meaning is defined as "pertaining to or designating races" and that "racial" already was in the draft of the convention, a compromise for the inserting of "ethnical" in return for the omission of "political" seems to have been a one-sided trade, with our side the loser.

The elimination of "political" groups and "with the complicity of government" now permits genocide where it goes on (Czechoslovakia, Hungary, Africa, Asia). Sir Hartley Shawcross, a former British Attorney General, said that the adoption of the convention will delude people into believing that a great step forward has been taken, whereas nothing has been accomplished.

This "legislative history" as to the circumstances under which "political" was omitted on the insistence of the Soviet Union and other Communist nations, so that assassination of political groups is not prohibited by the convention, is explained and confirmed by the refusal of the Soviet Union to ratify the 1957 Convention on the Abolition of Forced Labor, because it prohibits the imposition of forced labor as a means of political coercion or as punishment for the expression of political views opposed to those of the government.

WHERE CAN GENOCIDE TRIALS BE HELD?

Aside from the answerability of governments for violation of the convention on charges filed with the United Nations, the treaty provides (Article VI) that "Persons charged with genocide . . . shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction."

In an article in the January, 1970, issue of this *Journal* (page 71), Bruno V. Bitker inadvertently omitted the words "in the territory of which the act was committed" when he quoted from Article VI. In a letter to the editor in the April issue (page 296), the omission was corrected by Mr. Bitker, but his January article concludes that a United States citizen charged with genocide under no circumstances could be tried elsewhere than in a court of the United States.

And in the report of January, 1970, on the genocide convention submitted by the Standing Committee on World Order Under Law to the House of Delegates, the same egregious *non sequitur* is drawn to the effect that since there is no such international tribunal as is contemplated under this article, no "American citizen could be deprived of his constitutional right to trial by jury, or be forced into a trial in some foreign court under procedures not American".

It seems especially difficult to understand this fallacious syllogism in light of the provisions of Article VII of the convention that genocide is not to be considered a political crime and that the parties to the convention "pledge themselves in such cases to grant extradition", presumably for trial in "the State in the territory of which the act was committed" (Article VI), "in accordance with their laws and treaties in force".

These jurisdictional and "extraditional" provisions raise important practical problems for the United States. The authorities in Hanoi have charged that members of the Armed Forces of the United States have been guilty of genocide in "the alleged massacre of civilians in a South Vietnamese village". If the United States were a party to the Genocide Convention, she would necessarily have agreed that these soldiers are subject to trial in Vietnam under the provisions of Article VI and, if the United States and Vietnam should ever have an extradition treaty, would be subject to extradition for trial in Vietnam, even if deemed or found innocent in this country.

Of course, no extradition would be necessary as to our American prisoners in North Vietnam. That country, it may be assumed, would cite the Genocide Convention, if we were a party to it, as our consent to the trial of those prisoners on genocide charges in that country, with the Nuremberg trials as a sanctioning precedent.

WHAT HAS HAPPENED TO THE "NUREMBERG DEFENSE"?

This suggestion in turn raises another interesting, serious and dangerous question for the United States. The "Nuremberg defense", universally pleaded in war crimes trials, is that the accused was following orders he was required to obey. Article IV of the Genocide

Footnotes at end of article.

Convention provides: "Persons committing genocide . . . shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals." As stated in the report of the Section of Individual Rights and Responsibilities: "The Genocide Convention makes clear, in Article IV, that in respect of the crimes specified, no one, not governmental officials, not private individuals, can escape responsibility for his action through this [Nuremberg] defense."

We join in asking the rhetorical question posed in his dissent by Ben R. Miller, a member of the council of the Section:

Would not the military strength of this nation and hence the nation itself be endangered if in following orders of a superior officer in the heat of battle subordinates would be faced with instant decisions of whether to risk court martial for refusing to follow orders, or punishment for genocide if a [tribunal] in the calm aftermath of a war could consider the result of following a particular order to have been genocide? For the Treaty abolishes the defense of subordinates that they were but following orders of their superior officers.

INTERNATIONAL PENAL TRIBUNAL STANDING IN THE WINGS?

Opponents of the Genocide Convention have insisted that if the convention were ratified by the United States, there would be the possibility of the trial of an American citizen accused of genocide before an international penal tribunal when, as and if such a court should be established and its jurisdiction accepted by the United States. The trial would be without the constitutional safeguards by which he would be protected in a court of the United States.

To this the proponents of the convention said in the Section report that "the answer is simple. No such tribunal has been established." They added:

If one were established, parties to the Genocide Convention would have the option whether to accept its jurisdiction or not. For the United States, that option would have to be independently exercised through the Treaty Power, that is only with the advice and consent of the Senate by a two-thirds vote.

Issue is taken, in the first place, with the last-quoted statement. This is just the type of action that, like recognition of a new foreign government, might be accomplished by an executive agreement without the advice and consent of the Senate. The point is well illustrated by the recent case of the International Anti-Dumping Code, concluded by the United States with seventeen other nations in Geneva on June 10, 1967. All those countries treated the code as a formal treaty requiring parliamentary approval—and so ratified it. The United States alone dealt with the document as an executive agreement, and because certain of its provisions were in direct conflict with corresponding provisions of Congressional tariff acts, the code was not submitted to the Senate for its advice and consent for fear of adverse action by that body.[5]

There possibly would be no practical way in which to assert the invalidity of an executive agreement accepting, in behalf of the United States, the jurisdiction of an international penal tribunal established for the trial of offenders under the Genocide Convention, once that convention itself been ratified by the United States.

Nor can it be said cavalierly that it is not contemplated by the United States that an international penal tribunal is to be established. The minutes of the 74th meeting of the Sixth (Legal) Committee of the General Assembly of the United Nations, held at Paris in October, 1948, contain a significant statement to the effect that the United States delegation stated that it "intended, at a later stage to show the need for the establishment of an appropriate international tribunal" in connection with Article VI of the Genocide Convention.

George A. Finch, a former Deputy Under Secretary of State, professor of international law at Georgetown University, Vice President of the American Society of International Law and editor-in-chief of its journal, in an address before the annual meeting of the society at Washington on April 29, 1949, said: "The proposals . . . to prevent genocide . . . have been framed so as to take American domestic questions out of the jurisdiction of American courts and place them under some form of international jurisdiction."

In a book on international enforcement of human rights, Professor Paul Gormley of the University of Tulsa School of Law states: "A private individual must be able to prosecute an action before an international tribunal—in his own name—against an offending government, particularly his own."

The Bangkok Conference on World Peace Through Law, held in September, 1969, unanimously adopted a resolution commending its committee engaged in a project entitled "Toward a Feasible International Criminal Court" and giving it all possible support and assistance.

How can it be said in good conscience, in the face of this wealth of background material to the contrary, that Americans may rest assured that ratification of the Genocide Convention by the United States at this time will not carry with it the ultimate establishment of an international penal tribunal for the trial of citizens of the United States charged with commission of offenses thereunder?

An American citizen or any other person residing in the United States who is tried by an international tribunal created for the trial of persons charged with the offense of genocide would be deprived of many of the rights provided in our Constitution for persons charged with offenses against the laws of United States in our national courts. Among these are the right to be charged for a capital or infamous crime only on a presentment or indictment of a grand jury and the right to a speedy and public trial by an impartial jury of the state and district wherein the crime is alleged to have been committed. The privilege against self-incrimination and the protection against unreasonable searches and seizures also might disappear.

Another reason militating against ratification of the Genocide Convention arises from the provision of Article III(c) making punishable "direct and public incitement to commit genocide" vis-a-vis the First Amendment's guarantees of free speech and press. Suffice it to say here that there is at least grave doubt under recent decisions of the Supreme Court as to the effect to be given, even by that Court, to such a treaty provision in the circumstances of different cases—certainly completely incomprehensible to judges of an international tribunal to whom our concepts of freedom of thought and expression might be chimeric mysteries at best.

RESERVATIONS ON ADHERENCE WOULD BE INEFFECTIVE

It is extremely doubtful that objections to the ratification of the convention by the United States can be obviated by reservations attached to our adherence. It will be recalled that by the Connally Amendment to the reservation of the United States to its declaration of adherence to the International Court of Justice, it is stipulated that the United States is not to be subjected to the processes of that court as to disputes which are essentially within her own domestic jurisdiction "as determined by the United States of America".

To circumvent that reservational safeguard, it was provided by Article IX of the Genocide Convention:

"Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

This article clearly overrides the Connally Amendment and subjects the United States to the unreserved jurisdiction of the International Court of Justice as to all matters involving the "interpretation, application or fulfillment" of the convention. Thus, if our Supreme Court should hold that a case under the convention is within this country's domestic jurisdiction and the conduct protected by the First Amendment, any party to the treaty could take the matter before the International Court of Justice, which need not follow our Court's decision. It might hold that the case was not within our domestic jurisdiction, and the United States would be bound by that decision despite the Connally Amendment.[6] This is a constitutional consummation devoutly to be avoided.

HOW EFFECTIVE COULD THE GENOCIDE CONVENTION BE?

In the final analysis, the prohibition of genocide by treaty must become an exercise in futility. Adolf Hitler would hardly have restrained the frightful acts of genocide that gave rise to the convention, even if it had been in existence and Germany had been a party to it during the Nazi reign of terror. The Soviet Union and her Communist-bloc allies were not deterred from the 1968 invasion of Czechoslovakia by the nonaggression provisions of the Charter of the United Nations.

The Genocide Convention places in the hands of nations whose peoples have never known the freedoms guaranteed under our Constitution the power to judge whether those freedoms are being protected properly within our domestic borders.

It is submitted that an international convention whose provisions may be invoked in an international forum when an individual commits a crime within the domestic jurisdiction of a state would cause far more friction between peoples and governments than does the evil it seeks to correct. It would tend to promote war rather than to maintain international peace and security within the letter and spirit of the Charter of the United Nations.

FOOTNOTES

[1] The word "genocide' was coined by the late Professor Raphael Lemkin (1900–1959) of the Yale Law School, whose parents were purged in Poland.

[2] In 1950 the Senate Foreign Relations Committee, headed by Senator Connally of Texas, having before it the genocide treaty from President Truman for advise and consent, ordered hearings by a subcommittee under the chairmanship of Senator McMahon of Connecticut. Hearings were extensive, running over a number of days. Many persons appeared in support of ratification. Carl B. Rix of Milwaukee, a former President of the American Bar Association, the late George Finch of Washington, D.C., then and for many years Editor-in-Chief of the *American Journal of International Law* and professor of international law at Georgetown University, and Alfred J. Schweppe of Seattle, formerly Dean of the University of Washington Law School and at the time Chairman of the American Bar Association's Committee on Peace and Law Through United Nations, appeared and testified against ratification, pointing out the grave inadequacies and risks of the proposed convention.

Footnotes at end of article.

The testimony taken at the hearings is part of the Senate records. After these 1950 hearings, the proposed convention became dormant for some twenty-one years, until revived by President Nixon in February, 1970.

It appears significant that Dean Rusk, who as Assistant Secretary of State presented the State Department's position to the McMahon subcommittee in 1950, was Secretary of State for eight years under two recent Presidents, but did not revive the Genocide Convention, even with a heavy Democratic majority in the Senate. Equally significant is the fact that during the Eisenhower Administration John Foster Dulles, the Secretary of State, announced that the administration would not bring up the Genocide Convention.

[3] State Department Publication 3972. Foreign Policy Series 26 (1950).

[4] See record of the proceedings of the Ad Hoc Committee in 1948, and especially the statement made on April 15, 1948, by Mr. Maktos of the United States, chairman of the committee, as to the position of the United States, and also the proceedings and votes in the sixth (Legal) Committee (75th and 128th meetings), and the Official Records of the Third Session of the General Assembly, Part I, "Legal Questions".

[5] See Public Law 90–634, 82 Stat. 1347 (October 24, 1968), 19 U.S.C.A. § 160, note (Suppl.), suspending certain provisions of the code, and its legislative history in *U.S. Congressional and Administrative News* (1968), Vol. 3, 4359 *ff.* See also Long, *United States Law and the Anti-Dumping Code,* 3 INT'L LAWYER 464 (1969).

[6] See Phillips, *The Genocide Convention,* 35 A.B.A.J. 623, 625 (1949).

AN ALASKAN SAMARITAN

Mr. STEVENS. Mr. President, Alaska's history is replete with examples of individual deeds of heroism performed by one Alaskan for another. Mr. William M. Bettis of Fairbanks, Alaska, has added another chapter to this legendary camaraderie of Alaskans by rescuing an 83-year-old pioneer from a burning cabin. I wish to insert at this point in the RECORD the text of a Department of Transportation news release relating to the details of Bill Bettis' bravery.

Secretary of Transportation John A. Volpe today in Washington presented the Award for Valor to William M. Bettis, Special Agent for the Alaska Railroad in Fairbanks.

The Award for Valor is the Department of Transportation's highest award for acts of heroism involving great personal risk by civilian employees under unusual circumstances.

The Award to Bettis was made for his action in Fairbanks in February of 1968 when he entered a burning cabin containing gasoline and other combustibles and rescued John Borgeson, then 83, who had been overcome by smoke.

Working in 38 below zero temperature, Bettis threw the fuel containers from the cabin, located Borgeson and removed him to safety and fought the flames by throwing snow on them until the fire department arrived.

Bettis' action was credited with saving Borgeson's life.

Special Agent Bettis previously has been cited for bravery for this action by the Carnegie Hero Fund Commission.

In many parts of Alaska the environment is demanding. It has often been said Alaskans are drawn together in their common efforts to adapt to severe climate or remote location. Bill Bettis has clearly illustrated that we may continue to have faith in the legend of the Alaskan Samaritan. I have known Bill since I was the U.S. attorney in Fairbanks in the early 1950's. Those of us who know him realize that for Bill this is just one of the many things he has done to help his fellow man without thought for his own safety.

Bill Bettis is an excellent law enforcement officer and he is a real human person in all that he does.

JOHN GARDNER THE CRITIC

Mr. DOLE. Mr. President, recently Mr. John Gardner, the former Secretary of Health, Education and Welfare, formed a lobbying group called Common Cause, ostensibly to work on behalf of legislation and proposals that Mr. Gardner deems in the best interests of the country.

Now, nobody can criticize this approach. It is legal, it is legitimate and it could be effective.

Unfortunately, Mr. Gardner, who is a nominal Republican, is using Common Cause to support his own disapproval of President Nixon.

In other words, he is using Common Cause, which the eager, the innocent, the enthusiastic and the unwary can join at $15 a head, for partisan political purposes.

It is one thing to seek to override a veto or even to change the congressional seniority system, both of which Mr. Gardner has sought to do. These are issues that can and do transcend politics.

But it is difficult to put in the same category Mr. Gardner's attack on the President in last Sunday's Washington Post. I have no intention of giving that attack wider circulation or credibility by repeating it here. At the same time, I do not deny Mr. Gardner's right to be critical of the President or anybody else he chooses to be critical of. That is not my point.

My point is that Mr. Gardner, despite his piety, is a political figure. I must assume he has political ambitions either for himself or for someone else, although obviously not Richard Nixon.

Those ambitions have led him to organize a number of issue-oriented and urban-oriented organizations. I suspect they have led him also to be critical of President Nixon.

What other steps these ambitions will lead him to take I can only speculate on.

But I do believe that those people contributing to Common Cause in the belief that they are participating meaningfully to advance one man's political ambitions, ambitions that may or may not fit in with their own political beliefs or desires.

John Gardner has every right to run for President or to support the candidate of his choice. But the supporters of, and contributors to, Common Cause should have the right to know whether he intends to do this and whether, as his statement seems to indicate, he intends to continue his attacks on the President.

ONE-BANK HOLDING COMPANY LEGISLATION

Mr. TOWER. Mr. President, the Senate-House conference on the one-bank holding company bill has reported a compromise bill which accomplishes its principal mission of placing one-bank holding companies under a modified set of regulations which have been applicable to multibank holding companies since 1956. In my opinion, this is the only step that should be taken at this time, since the President's Commission on Financial Structure and Regulation is currently studying the entire financial framework of our economy. The Commission's forthcoming recommendations for restructuring our financial laws and regulatory system will merit our careful consideration.

The primary function of the compromise bill is to remove the exemption of the one-bank holding companies from the Bank Holding Company Act of 1956. The principal provisions adopted by the conferees would: first, define a more flexible area for the performance of bank-related functions for nonbank subsidiaries of bank holding companies; second, give the Federal Reserve Board flexibility to exempt certain existing one-bank holding companies from divestiture in cases where an undue hardship would result to the company or community involved; third, allow certain other existing one-bank holding companies a limited freedom to keep their nonbanking companies, owned prior to June 30, 1968, in order to avoid enacting an unfair post facto law; and fourth, allow a fixed 10-year divestiture period for all one-bank holding companies forced to divest due to the provisions of the act.

Much controversy has centered on whether this bill is "pro-bank" or "pro-independent business." I think that the Senate bill, which the conference bill most closely resembles, is a propublic bill. It provides flexibility in financial operations for commercial banking, separates these operations from activities in the general field of commerce, and protects the independent businessman against unfair competition from bank-holding companies. Both the banking industry and the affected independent businesses worked diligently for their respective points of view, and I think that the conference bill is a feasible compromise of their two concerns plus the public's interest in fair competition. What some have inappropriately called "loopholes" in the Senate bill and the final conference bill are actually nothing more than exemptions for holding companies which had relied in good faith on the existing banking law at the time they acquired their banks. They represent no unfair competition to the affairs of independent businessmen. The whole purpose of the bill was simply to separate banking from general commerce for the future, as a matter of general prospective congressional policy. I repeat, no current problem really exists for the public interest. Over the long-run, however, Congress has decided to prohibit the future creation of close operational connections between banking and general commerce, with the proviso that current operational connections be allowed, in all fairness, to exist under certain limitations. Some of the existing bank-holding companies may not qualify under the various terms of the several exemptions and will have to divest. I do not think that this is fair to them, but I was only one member of

the conference, and other members felt differently.

In sum, I feel that the conference bill is a workable, viable approach to the long-run concern of Congress over the future prospect of closely related banking and general commerce sectors of the economy. No problem really exists at this time, but as a matter of prospective legislation to prevent future problems, this bill is adequate to the task. I recommend it to the full Senate.

KEEPING CONGRESS INFORMED

Mr. CHURCH. Mr. President, for the health and well-being of balanced constitutional government, it is necessary that the Senate continue to do all it can to reassert its authority in formulating foreign and security policy. Along these lines, the Case bill, requiring the Executive to inform the Congress about all international agreements within 60 days of making them, is an important building block in the reconstruction of our political system now taking place. The Senate will be considering the Case bill early in the next Congress. I will support this important proposal, and I hope the majority of my colleagues will, too.

I ask unanimous consent that a poignant account of this legislation, appearing in the December 19 New Republic, be printed in the RECORD.

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

ADVISE AND CONSENT

"Foreign policy must take precedence in the White House. It must also take precedence in this Senate. The only safe way to grant the necessary priority in foreign policy is to restore bipartisanship, not on a political party basis alone but between the branches of Government before decisions are made. That, in turn means restoring the habit of consultation between the White House and the Congress, for only consultation gives substance to the idea of bipartisanship."

—Senator GEORGE AIKEN.

President Nixon has an opportunity to do what Senator Aiken wants by supporting, or at least not opposing, Sen. Clifford Case's proposal to formally require the executive branch to tell Congress about all international agreements within 60 days of making them. It's an old idea, originating with Republicans in the Eisenhower administration but never enacted. Treaties, of course, must be ratified by the Senate. And existing law requires the Secretary of State to make an annual accounting to Congress of agreements which the administration chooses not to call treaties.

But that law is honored in the breach, usually on the grounds that national security considerations preclude public disclosure. In practice this means the President can make secret promises of military and other support without any congressional oversight or public debate. If we ever learn of them at all it's often too late to do anything to affect policy. Senator Stuart Symington's Foreign Relations Subcommittee on U.S. Security Agreements and Commitments Abroad has provided a number of examples of once-secret pacts that make the case for Case—a 1966 contingency plan under which U.S. troops would help Thailand repel a North Vietnamese attack launched from Laos, a quid-pro-quo agreement with Korea involving military aid for the Koreans in exchange for Korean troops in Vietnam, military aid to Ethiopia in return for a base.

As Senator Aiken said in his Senate speech November 24, the Vietnam war is itself the prime example of failure of consultation between the President and Congress. In 1965, "the aim of preventing defeat in Vietnam was replaced by the aim of military victory—and the great escalation started, without consultation with the Senate." Aiken, senior Republican on the Foreign Relations Committee, generally supports Nixon. He believes, naively in our judgment, that "if there is discontent in the Senate over the conduct of foreign policy, it is because President Nixon has not yet restored the habit of consultation that lapsed during earlier years." (Aiken says he might even have supported the invasion of Cambodia if only he'd known about it in advance.)

The legislation revived by Senator Case was originally introduced in 1954 by the conservative Republican Sen. William F. Knowland with the support of the State Department. It differed from Case's proposal in that it would have forced disclosure to senators, but not representatives. The Case bill would require the Secretary of State to send Congress transcripts of all agreements as soon as possible, but in no event later than 60 days after they've been completed. In those cases where public disclosure would be, in the President's opinion, "prejudicial to the national security," the texts of agreements would go to the Senate Foreign Relations and House Foreign Affairs Committee and be protected by "an appropriate injunction of secrecy to be removed only upon due notice from the President." The Members under such circumstances would know but couldn't tell. For a branch of government whose function is to advise and consent, that's preferable to not knowing at all.

It's too early to tell from where support for Case will come. Soundings are being made at the State Department and the White House. On the Foreign Relations Committee all but perhaps hawkish Sen. Gale McGee are likely to be receptive. Senator Aiken hasn't yet said he'll go along, though failing to do so would seem to contradict his views on consultation. Senator Fulbright, a private supporter, has been publicly silent, as has Senator Symington, whose only move so far was to insert in the *Congressional Record* a newspaper report explaining the Case bill.

WHITE HOUSE CONFERENCE ON INFLATION AND UNEMPLOYMENT

Mr. GURNEY. Mr. President, yesterday, the distinguished senior Senator from Arkansas (Mr. MCCLELLAN) introduced Senate Resolution 496.

The resolution provides that it is the sense of the Senate that the President should call immediately a White House conference to study and recommend proposals to cope with inflation and unemployment.

I wish to express my support of this resolution. The suggestion of the Senator from Arkansas has great merit. Especially significant is the nonpartisan-bipartisan nature of the proposal, a sincere, genuine, and concrete idea for a universal attack on all fronts of our troublesome and nagging economic problems.

EQUAL OPPORTUNITY IN BUSINESS ENDEAVOR FOR MINORITIES

Mr. TOWER. Mr. Prseident, for many years members of minority groups in America have suffered inequities in their efforts to become entrepreneurs. Traditional sources of financing have in the main, been unavailable, and numerous obstacles, unknown to majority businessmen have stood in their way.

This problem was not unknown to the President and some six weeks after he took office he created the Office of Minority Business Enterprise, placing it under the responsibility of Secretary of Commerce Maurice H. Stans.

The role of the Office of Minority Business Enterprise was clear: To coordinate all Federal activities relative to the minority business enterprise effort, and enlist the support and cooperation of the private and public sectors.

Today the status of this effort through June of 1970, has been made known in a report to the President by Secretary Stans. It is a good report and most worthy of mention here today.

The report shows that great difficulty was experienced in the early stages of the program effort. It was something new that was being undertaken and there were no guidelines to point the way. Some starts turned out to be in the wrong direction, but changes were made as necessary. The efforts were not without criticism, unjust and unreasonable in most cases.

But out of it all, as the report shows, a firm course of direction emerged, and bit the pieces for progress began to fall into place.

Today the program is on a steady course and activity is rapidly expanding at the national and local levels. Statistics are now available, and each one shows significant progress. Innovative programs and concepts have been introduced, legislative changes have been recommended and, in some cases, made.

The achievements to date, the dedication cf the people behind and in support of this effort, the groundwork that is laid for the future, all are to be highly commended. It is a job that, although, by far, is not finished, has been well done.

I wish to personally recognize this effort, and to ask my distinguished colleagues to join me in lending our full support to this deserving undertaking.

At long last the obstacles to equal opportunity in business endeavor for minorities are being removed. This is as it should be in this great Nation—equal opportunity on every front for all deserving citizens.

LITTER CLEANUP ON THE NORTH SLOPE AREA

Mr. STEVENS. Mr. President, as concern for our natural environment has increased, attention has been focused on the litter left by exploring oil crews. One of the chief examples given has been the empty oil drums left by the Navy during their exploration of Naval Petroleum Reserve No. 4, during World War II. After lengthy negotiations with the Navy Department, an agreement has been reached to clean up the petroleum reserve. At the same time that this action was being taken on Federal land, the Alaska Oil and Gas Association has been taking action on the State land in the Colville River Delta area. This area adjoins the petroleum reserve.

I ask unanimous consent that the press release of the Alaska Oil and Gas Asso-

ciation describing their achievements in cleaning up the North Slope area be printed in the RECORD.

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

ALASKA OIL AND GAS ASSOCIATION,
Anchorage, Alaska, October 9, 1970.

The first phase of a pilot program for litter clean-up on the North Slope has been completed, according to the Alaska Oil and Gas Association. The project covered more than 33,000 acres in the Colville Delta.

The industry experiment is in addition to programs conducted by individual companies and groups of operators. The pilot program will assess efficiencies and costs of one method of sweeping an entire area clean. The task is to remove all litter and debris encountered, regardless who may have discarded it.

Eskimo crews were hired to gather the debris consisting mostly of empty barrels, discarded boxes, paper, and clothing. The barrels and non-burnable litter were stacked at specific pick-up locations, while the other material was burned in existing pits. The litter pick-up crews were flown to the area, then lived in tents for six weeks. Guided by air reconnaissance, the crew swept the area on foot gathering debris as they traveled.

After freeze-up, November or December, the barrels and bags of debris will be removed by Eskimo snowmobile crews to central sites where they can be transported out of the delta.

A local contractor cooperated with a Colville area resident to make arrangements for the workers and supervised the project, which was initiated and funded by members of the Alaska Oil and Gas Association.

NEW DRAFT CONSTITUTION OF RED CHINA

Mr. THURMOND. Mr. President, in recent months much attention has been given to the question of Communist China's status in the world. The recognition of the totalitarian regime by Canada, and the recent close vote in the United Nations have once more given rise to the argument that the United States must extend diplomatic recognition to the Peking rulers and seat them in the U.N.

Most of this argument runs along the line that we have diplomatically opposed Red China for more than 20 years, that it is fruitless to continue opposition any longer, and that, at any rate, more and more of the world has come to accept the so-called reality of the existence of a Communist state. Such an argument is nothing more than a kind of self-fulfilling prophecy; that is, propaganda designed to bring about the event predicted. The fact remains that we are the leaders of the free world, and the position that we take is more likely to be decisive in world affairs than the positions of lesser nations. If we recognize Red China, then most assuredly many other nations would follow our lead.

Another school of thought takes the gradualist approach. This view holds that we cannot recognize Red China right now, but that we should take small steps which will eventually bring the mainland giant into closer communication with the rest of the world.

This position is equally fallacious. It is parallel to the discredited "Soviet communism is mellowing" theory. All the time that we have been waiting for the Soviets to mellow, they have grown more aggressive, more sophisticated in subversion and propaganda, and militarily stronger, until today the Soviets present the greatest threat to world peace.

Similarly with the Peking regime: While some were waiting for the Peking regime to consolidate its power and moderate its excesses, the Chinese mainland erupted in turmoil and purges time and time again. Instead of growing "mellow," Mao Tse-tung has become more ruthless and more dedicated to the revolutionary process. Any pretense at democracy has been boldly stripped away. During the Red guard purges, the Chinese Communist Party was practically destroyed at all levels, except for the Maoist clique. Mao is now moving to impose his power once more in an exceptionally brutal and totalitarian manner.

A key exhibit in the current Mao campaign is the draft constitution which was approved at the second plenary session of the CCP Ninth Central Committee on September 6. In the translations which have recently reached this country, the Maoist plan is shockingly evident. Never has there been a totalitarian document which has so boldly dropped the veils. This is the first "constitution" in history which actually designates a living person as head of state. Needless, to say, that person is Mao Tse-tung. I repeat, Mao Tse-tung is named in the constitution itself as the head of state. Moreover, the constitution also names his successor, who is Lin Piao, and it lays down "Mao Tse-tung thought" as the guiding principle of the country. I quote article 2 of the draft constitution:

Chairman Mao Tse-tung is the great leader of the people of all the nationalities of the whole country, the head of the proletariat of our country, supreme commander of all armed forces of the whole country; Vice Chairman Lin is Chairman Mao's close comrade-in-arms and successor, deputy commander of all armed forces of the whole country. The thought of Mao Tse-tung is the guiding principle of all work of the people of the whole country.

These are actually words from the draft constitution. Moreover, the constitution goes on to lay down the whole apparatus of dictatorship, with the power concentrated in the hands of the Mao-Lin group. It is instructive to compare this draft with the present Communist Chinese constitution. The draft has 30 articles, as compared to 106 at present. It was formulated in secrecy and handed down. It boldly states that the workers are subject to the Communist Party, and that the party is subject to Mao. All pretense of "a people's democratic state" has been removed.

Mr. President, the text of the draft constitution appears in the December 1970 edition of the journal Issues and Studies, and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Mr. President, the same journal, Issues and Studies, has also presented an analysis of the draft constitution by scholars in Chinese affairs, and I ask unanimous consent that this analysis, also from the December 1970 issue, be printed in the RECORD at the conclusion of my remarks.

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

AN APPRAISAL OF PEIPING'S NEW DRAFT "CONSTITUTION"

I. A "CONSTITUTION" FORMED IN SECRET

A new "draft constitution" was adopted by the second plenary session of the CCP Ninth Central Committee on September 6, 1970. This was a big thing for the Maoists.

The present "constitution" was ratified at the first session of the "National People's Congress" on September 20, 1954. Liu Shao-chi explained that a drafting committee led by Mao Tse-tung had been established on January 13, 1953. In March 1954, the committee accepted the CCP Central Committee's draft "constitution" which was then the subject of serious discussions for more than two months by over 8,000 representatives from every "democratic party," every mass group and every sphere of society in Pieping and other large cities. Having been revised, the draft was promulgated by the "Central People's Government Committee" on June 14, 1954, and discussed by the whole people. More than 150,000,000 persons were said to have participated in the discussions. The draft revised according to the opinions gathered from these discussions was approved at the 34th session of the "Central Government Committee" on September 9, 1954. It was then submitted to the first "NPC." In short, the "constitution," in form, was enacted openly.

It is said that the new draft adopted by the second plenary session of the CCP Ninth Central Committee had been handed down to local organs for discussion, but has since been recalled. The so-called "democratic parties" no longer exist in substance. Consequently, the participants in the discussions belong to the Maoist clique only, for instance, the revolutionary committees. The reason for recalling it might be a need to re-examine its contents. This time there have been no public discussions so far.

II. SYSTEMATIZING MAO TSE-TUNG'S AUTOCRACY

In a democratic country the constitution is a fundamental law of a permanent character that cannot be easily discarded or amended. Its purpose is to protect the rights of the people. A Communist regime treats the state as an instrument for class oppression, and the purpose of its constitution is to safeguard the policy of the ruling class (the Communist Party), not to protect the rights of the people. The Communists say they think the state will finally wither away, the constitution, therefore, can be amended in accordance with necessity in the course of the Communist revolution. As a result, the Communist constitution is filled with "class" characteristics.

The so-called "socialist constitutions" from that of the Soviet Union down to those of the Communist regimes founded after World War Two have, however, a more or less pseudo-democratic character. Even the old "constitution" of the Peiping regime was copied from that of the Soviet Union. At present, the new draft of the "constitution" has even cast aside this "democratic" facade, revealing the genuine character of the Maoist regime—that is, an absolute dictatorship under the autocracy of Mao Tse-tung. The names of Mao Tse-tung and Lin Piao are written into the "constitution" so as to consolidate their ruling position.

The draft of the "constitution" emphasizes: 1) the socialist economy; 2) the proletarian dictatorship; 3) the leading and ruling position of the Communist Party, and particularly the personal supremacy of Mao Tse-tung; 4) permanent revolution. The aim

here is to systematize the unified leadership and personal autocracy of Mao Tse-tung and his "thought."

III. THE PARTY ABOVE THE "STATE," MAO ABOVE THE PARTY

In the economic sphere the socialist component is emphasized. Among the forms of ownership listed in the old "constitution" (state ownership, that is, ownership by the "whole people"; collective ownership by the "working masses"; ownership by individual working people; and capitalist ownership, chapter one, article 5 of the old "constitution"), only two survive in the draft: state and collective ownership. The draft also permits individual workers in non-agricultural occupations to engage in "individual labor without exploiting others," subject to many limitations (chapter one, article 5 of the new draft).

In the political sphere, the overwhelming emphasis on proletarian dictatorship contrasts with the old "constitution," which is based on the "Common Program of the Chinese People's Political Consultative Conference." The draft crosses out the words, "forging a broad people's democratic united front composed of all democratic classes, democratic parties and groups and popular organizations" which were in the preamble of the former "constitution". The "People's Republic of China" is changed from "a people's democratic state" (chapter one, article 1 of the old "constitution") into "a socialist state under proletarian dictatorship" (chapter one, article 1 of the draft). The organs through which the people exercise their powers are transferred to the "people's congresses" at all levels "under the predominance of the deputies of workers, peasants and soldiers" (chapter one, article 3 of the new draft).

The new draft of the "constitution" pays particular attention to the leadership of the Communist Party. Thus "a state led by the working class . . ." in article 1 of the old "constitution" is transformed into "a state led by the working class (through the Chinese Communist Party) . . ." In addition, the "National People's Congress" has been modified: it is now—"the highest organ of state authority, led by the Chinese Communist Party" (chapter two, article 16 of the new draft); the "Premier of the State Council" in the draft is appointed "according to the recommendation of the Central Committee of the Chinese Communist Party" (chapter two, article 17 of the draft); "the People's Liberation Army and the militia are soldiers who are the sons and little brothers of the workers and peasants; and which are led by the Chinese Communist Party" (chapter one, article 15 of the new draft). In a word, the "Party" and the "State" exist in the vertical relationship of the leader and the led. The same is true of the relationship between the "Party Constitution" and the "State Constitution."

The rights of the people and the functions and powers of the people's congresses as well as the "State Council" are curtailed to such an extent that their powers are in effect shifted to the Party which is chaired by Mao Tse-tung, with Lin Piao as "vice-chairman." As a result, these two men become the supreme leaders. The draft further stipulates: "Chairman Mao Tse-tung is the great leader of the people of all nationalities of the whole nation, the head of the proletariat of our country, the supreme commander of all armed forces of the whole nation; Vice Chairman Lin is Chairman Mao's close comrade-in-arms and successor, the deputy commander of all armed forces of the whole nation. The thought of Mao Tse-tung is the sole guiding principle of all work of the people of the whole nation" (chapter two, article 2 of the draft). Not only are Mao's thought and dictatorship institutionalized, but his successor is also designated in the "constitution", so as to pave the way for the future dominance of Mao's thought and line after his death.

The new draft drops the former preamble and cuts down on the contents of the former "constitution." That document had 106 articles divided into four chapters, while the draft has only 30 articles in four chapters. The section on the "chairmanship" in chapter two, along with the "National Defence Council" and the "Supreme State Conference" headed by the "Chairman", disappears from the new draft. There is nothing about the "chairmanship"; instead, Mao and Lin, who are not elected by the people, serve as chief and deputy chief of the regime with endless tenure as well as unlimited powers. (There are no detailed statements or restrictions on their powers.)

IV. ARROGANCE TOWARDS FOREIGN COUNTRIES

Fifteen out of the thirty articles in the draft deal with general principles. The draft formalizes the people's communes of the great-leap-forward period and the later three-stage ownership as well; it endorses both the policy and the nomenclature (e.g. the "revolutionary three-in-one combination") that has come about since the launching of the Cultural Revolution. It also seeks to perpetuate the duties unfulfilled in the Cultural Revolution, and is, therefore, a "constitution" for continued revolution.

Aside from the provision that the PLA and the militia shall "prevent the subversion and invasion by imperialism, socialist imperialism and their running dogs" (chapter one, article 15), there is nothing concerning foreign policy. But the Maoist party constitution is superior to the "state constitution". This article on the PLA and the militia is the reflection of the "three-anti" line which has already been defined in the party consitution ratified by the CCP Ninth National Congress.

The "Standing Committee" of the "NPC" is converted into a "Permanent Committee"; the "Chairman and Vice-Chairman" of the "Committee" become "Director" and "Deputy Director." This seems to mean that the body has been greatly degraded. The post which "receives foreign diplomatic representatives" has been shifted from the "Chairman of the State" to the "Permanent Committee" of the "NPC." That is to say, a foreign envoy who presents his credentials sees the director of the "NPC" permanent committee instead of the Maoists' chief. If Mao Tse-tung personally receives a foreign envoy, this would be an additional honor. Such arrogance is rare in diplomacy!

The Maoists persist in "permanent revolution" in both foreign and domestic matters and usually take an "offensive" position. Despite Peiping's friendly diplomatic gestures, war preparedness is being built up in the mainland (this becomes part of the new draft).

V. NO SOLUTION TO INTERNAL AND EXTERNAL PROBLEMS

Nevertheless the new draft "constitution" still emerges with the characteristics of a document for a transitional period, it cannot remedy the Maoist crises in this period.

It is said in the new draft that "The People's Liberation Army is forever a combat group, and is also a working team and production group. The duty of the armed forces of the People's Republic of China is to safeguard the achievements of socialist revolution and socialist construction . . ." (chapter one, article 15). This shows that both military training and military control will continue to be employed on the Chinese mainland, because both socialist revolution and socialist construction require military "protection."

"To support Chairman Mao and his close comrades-in-arms Vice Chairman Lin" is not only a fundamental "duty" of citizens, but their fundamental "right" (chapter one, article 26). Does this not imply that opponents still exist?

The new draft of the "constitution," which can be said to be Mao's own "constitution," is quite different from those of western countries. It will be repudiated by democratic countries and people. Nor is it like those of the Soviet Union and other Communist regimes. In addition, it talks about opposing "socialist imperialism." The Soviets may consider the Maoist regime unorthodox. This benefits them in their struggle against Peiping.

From the viewpoint of political science, this kind of "people's congress" and "constitution" (the new draft) is useless. The Maoists, however, may soon be able to claim that they have the "National People's Congress" and the "Constitution", and thus give the whole world the impression that their internal crises have been conquered and things are gradually getting back to normal.

We doubt whether Mao's deceit can attain its goals. It is very hard for Mao Tse-tung to deceive all the people of the world.

REVISED DRAFT OF THE "CONSTITUTION OF THE PEOPLE'S REPUBLIC OF CHINA"

(NOTE.—The second plenary session of the CCP Ninth Central Committee (August 23—September 6, 1970), in addition to proposing to the Standing Committee of the "NPC" that necessary preparations be made for the convening of the fourth "National People's Congress" at an "appropriate time," also approved on September 6, a revised draft of the "Constitution of the People's Republic of China.")

The old "Constitution" of the Peiping regime has a preamble and four chapters, totaling 106 articles with the second chapter divided into six sections. The revised draft of the "Constitution", without a preamble, contains four chapters and thirty articles, and the second chapter has only five sections. The second section on "the Chairman of the People's Republic of China" is dropped. In comparison with the old "Constitution", the new one has been considerably simplified and hence its contents are more ambiguous.

It is said that the Maoists had distributed the draft to local organs for discussions, but soon took it back for reasons still unclear.

Since the draft had been adopted by the second plenary session of the CCP Ninth Central Committee, although for some reason or another, it has been recalled, it will still be the standard copy when the fourth "NPC" is convened; further, the draft, according to the precedent of the revision of the "party constitution" adopted at the CCP Ninth National Congress, will not be revised to any large extent. The draft is translated below for reference.

Revised Draft of the Constitution of the People's Republic of China. (Adopted on September 6, 1970, by the Second Plenary Session of the Ninth Central Committee of the Chinese Communist Party.)

CHAPTER 1. GENERAL PRINCIPLES

Article 1. The People's Republic of China is a socialist state under proletarian dictatorship led by the working class (through the Chinese Communist Party) and based on the alliance of workers and peasants.

Article 2. Chairman Mao Tse-tung is the great leader of the people of all the nationalities of the whole country, the head of the proletariat of our country, supreme commander of all armed forces of the whole country; Vice Chairman Lin is Chairman Mao's close comrade-in-arms and successor, deputy commander of all armed forces of the whole country. The thought of Mao Tse-tung is the guiding principle of all work of the people of the whole country.

Article 3. All powers of the People's Republic of China belong to the people. The organs through which the people exercise powers are the National People's Congress and the local people's congresses under predominance of the deputies of workers, peasants and soldiers. The National People's Con-

gress, the local people's congresses and other state organs practice democratic centralism. Deputies to the National People's Congress and local people's congresses are produced through democratic consultations and elections; the electoral units and electorates have power to supervise and to replace at any time the deputies they elect according to the procedure prescribed by law.

Article 4. The People's Republic of China is a united multi-national state; all the national autonomous areas are inalienable parts of the People's Republic China; all the nationalities are equal. Great nationalism and local nationalism are opposed; all the nationalities have freedom to use their spoken and written languages.

Article 5. At present, the following basic forms of ownership of means of production exist in the People's Republic of China; socialist ownership by the whole people and socialist ownership by the laboring masses; the state permits individual laborers in non-agricultural occupations to organize the production group of the rural people's commune in the municipality, the township, the street, under the unified arrangement, to engage in individual labor without exploiting others, as prescribed by law, but at the same time they must be gradually led toward the road of socialist collectivization.

Article 6. The state sector of the economy is the guiding power of the national economy. Mines, water-ways national forests, wilderness and other resources all belong to the whole people; the state may buy, requisition or nationalize land and other means of production both in the cities and the countryside as prescribed by law.

Article 7. Rural people's communes are organizations uniting politics and society. At the present stage, the collective ownership economy of the rural people's communes ordinarily applies three-stage ownership, based on the group. The three-stage ownership consists of the commune, the great brigade, and the production group with the production group as the basic accounting unit. Under conditions which guarantee the absolute superiority and development of the collective economy of the people's communes, commune members may manage small scale private plots.

Article 8. Socialist public property is inviolable. The state guarantees the consolidation and development of the socialist economy, and forbids any person to use any means to damage the socialist economy and the interests of public property.

Article 9. The state practices the socialist principles of "he who does not work, neither shall he eat"; "from each according to his ability"; "to each according to his work." The state protects the right of citizens to own the income from their labor, savings, houses and other means of livelihood.

Article 10. The political work is the life line of all work; the state grasps revolution, promotes production, promotes work, promotes war preparedness, promotes the socialist economy, planned, ordered development; it gradually improves the material and cultural life of the people, and consolidates national independence and security on the basis of continually raising the social productivity.

Article 11. All state organs and workers of these organs shall study and apply the thought of Mao Tse-tung in a lively way, give prominence to proletarian politics, oppose bureaucratism, closely unite with the workers, peasants and all laboring masses, serve the people with their whole hearts and minds. Workers in state organizations must participate in collective labor; all organs must practice the principle of simplification of administration; the leading organizations all shall implement the revolutionary three-in-one combinations of soldiers, cadres, masses, and of old [cadres], middle [-aged cadres] and young [cadres].

Article 12. The proletariat shall implement full dictatorship against the bourgeoisie on the matters pertaining to the superstructure, including all spheres of culture. Culture, education, literature and art, and scientific research all shall serve the proletariat, serve the workers, peasants and soldiers, and combine with those engaged in labor.

Article 13. Great blooming, great contending, big character posters and great debate are socialist revolutionary forms created by the popular masses.

The state protects the use of these forms by mass movements to create a political situation characterized by democracy, centralization, order, freedom, unified will, personal contentment and vigorous living. This is beneficial to consolidating the proletarian dictatorship.

Article 14. The state protects the socialist system, suppresses all treasonous and counter-revolutionary activities, and punishes all traitors and counter-revolutionaries. The state deprives landlords, rich peasants, reactionary capitalists, counter-revolutionaries and other bad elements of their political rights for a specific period of time, as prescribed by law; at the same time it provides for them basic means of livelihood and transforms them through labor to become citizens who earn their livelihood by their own labor.

Article 15. The People's liberation Army and militia, whose soldiers are the sons and little brothers of the workers and peasants, and which are led by the Chinese Communist Party, are the armed power of the nation. The People's Liberation Army is forever a combat group, and is also a work team and a production group. The duty of the armed forces of the People's Republic of China is to safeguard the socialist revolution and the achievements of socialist construction, to defend the sovereignty, territorial integrity and security of the country, to prevent subversion and invasion by imperialism, socialist imperialism and their running dogs.

CHAPTER 2. THE STATE STRUCTURE

Section I. The National People's Congress

Article 16. The National People's Congress is the highest organ of state authority under the leadership of the Chinese Communist Party. The National People's Congress is composed of deputies elected by provinces, autonomous regions, municipalities directly under the central authority, the armed forces and Chinese resident abroad. If necessary, some patriotic personages may be specially invited to attend. The National People's Congress is elected for a term of five years. Should exceptional circumstances arise, the term may be prolonged. The National Peoples Congress meets once a year. Under special circumstances it may be convened before its due day, or postponed.

Article 17. The National People's Congress exercises the following functions and powers: to amend the Constitution; to enact the Constitution; to appoint and dismiss the Premier of the State Council according to recommendation of the Central Committee of the Chinese Communist Party; to examine the state budget and the financial report; and to exercise such other functions and powers as the National People's Congress considers necessary.

Article 18. The Permanent Committee of the National People's Congress is a permanent acting body of the National People's Congress. The Permanent Committee of the National People's Congress exercises the following functions and powers: to convene the sessions of the National People's Congress; to interpret the laws; to adopt decrees; to decide on the appointment or recall of plenipotentiary representatives to foreign states; to receive foreign representatives and approve and annul treaties with foreign states. The Permanent Committee of the National People's Congress is composed of the following members elected and subject to recall by the National People's Congress; the Director, several Deputy Directors and several Members.

Section II. The State Council

Article 19. The State Council is the Central People's Government. The State Council is responsible to the National People's Congress and its Permanent Committee and reports to them; The State Council is composed of the Premier, the Vice-Premiers, the Ministers, the Heads of Commissions.

Article 20. The State Council exercises the following functions and powers: to formulate administrative measures, and issue decisions and orders in accordance with the Constitution, laws and decrees; to coordinate and lead the work of Ministries, Commissions and local administrative organs of state throughout the country; to submit and put into effect the national economic plans and provisions of the state budget; to administer national administrative affairs; and to exercise such other functions and powers as are vested in it by the National People's Congress and its Permanent Committee.

Section III. The Local People's Congresses and Local Revolutionary Committees

Article 21. Local people's congresses at all levels are the organs of state authority in their respective localities; the term of office of the congresses of provinces and municipalities directly under the central authority is five years; the term of office of the people's congresses of special districts, municipalities, counties is three years; the term of office of the local people's congresses of rural people's communes and towns is two years.

Article 22. Local revolutionary committees are the permanent organs of the local people's congresses and are also the local people's governments at corresponding levels. A local revolutionary committee is composed of the director, several deputy directors, severals members elected and subject to recall by the respective local people's congress. The local revolutionary committees are responsible to the people's congresses at corresponding levels and to the administrative organs of the state at the next higher level, and report to them.

Article 23. The local people's congresses and the local revolutionary committees produced by them at corresponding levels ensure the execution of laws and decrees in their respective administrative areas; fully develop the local activism under the unified plans of state; lead socialist revolution and socialist construction at the local level; examine and approve local budgets; safeguard the revolutionary order; safeguard the rights of citizens.

Section IV. The Organs of Self-Government of National Autonomous Areas

Article 24. Autonomous regions, autonomous *chou* and autonomous counties all are autonomous areas of nationalities. The organs of self-government of the national autonomous areas are people's congresses and revolutionary committees. The organs of self-government of the national autonomous areas, besides exercising the functions and powers of local state organs specified in Section III of Chapter Two of the Constitution, exercise autonomy within the limits of the authority prescribed by the law. The higher organs of state shall fully safeguard the rights of the organs of self-government in the national autonomous areas to exercise autonomy, and shall actively assist the various minorities to implement socialist revolution and socialist construction.

Section V. Judicial Organs and Procuracies

Article 25. The Supreme People's Court, local people's courts and special people's courts exercise judicial authority. People's courts at all levels are responsible to the people's congresses at corresponding levels and their permanent organs, and report to

them. The chiefs of the people's courts at each level are appointed and recalled by the people's congresses at the corresponding level.

In examining and judging cases, the mass line shall be implemented; grave counter-revolutionary criminal cases must be discussed and criticized by the massess.

CHAPTER 3. FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Article 26. The fundamental rights and duties of citizens are: to support Chairman Mao and his close comrad-in-arms Vice Chairman Lin, to support the leadership of the Chinese Communist Party, to support proletarian dictatorship, to support the socialist system, to abide by the Constitution and law of the People's Republic of China, to defend the homeland, to resist invasion. These are the supreme duties of each and every citizen; it is an honorable duty of citizens to perform military service according to law.

Article 27. Citizens who have reached the age of eighteen, except persons deprived by law of the right to vote and stand for election, have the right to vote and stand for election; citizens have the right to education; working people have the right to material assistance in old age, and in case of illness or disability; women enjoy equal rights with men in all spheres; the state protects marriage, the family, and the mother and child; the state protects the proper rights and interests of Chinese resident abroad.

Article 28. Citizens enjoy freedom of speech, freedom of correspondence, freedom of press, freedom of assembly, freedom of procession, freedom of demonstration and freedom to strike; they enjoy freedom of religious belief and freedom not to hold religious belief; freedom to spread atheism. The personal freedom and the homes of citizens are inviolable; no citizen may be arrested except by decision of a people's court or a public security organ.

Article 29. The People's Republic of China grants the right of asylum to any foreign national persecuted for supporting a just case, for taking part in the revolutionary movement or for engaging in scientific activity.

CHAPTER 4. NATIONAL FLAG, NATIONAL EMBLEM, CAPITAL

Article 30. The national flag is a red flag with five stars; the national emblem is: in the center. Tien An Men under the light of five stars, framed with ears of grain, and with a cogwheel at the base; the capital of the People's Republic of China is Peking.

LEGAL SERVICES PROGRAM OF THE OFFICE OF ECONOMIC OPPORTUNITY

Mr. TOWER. Mr. President, in the Thursday, December 3, edition of the Dallas Times Herald, there appeared a very penetrating editorial on the legal services program of the Office of Economic Opportunity. There has been much controversy lately over this program, and I am glad to see one of the leading dailies in Texas speak out so clearly on the issue.

In order to better inform the Senate and the public of what I believe to be the view of many Texans, I ask unanimous consent that the Times Herald editorial be printed at this point in the RECORD.

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

LEGAL SERVICES DOOMED?

As appears to be the case nationally, the director and staff of the War on Poverty's Legal Services project here seem bound and determined to wreck a vitally important service to the poor because of myoptic pursuit of their own ideolcgical goals.

And the proponents of Legal Services, as it now operates, are aiding and abetting this unfortunate destructive process.

The patent truth of the matter is that Legal Services, here as elsewhere, has too often raced far afield from the purpose originally intended by Congress. It was created as a free legal aid and protection for the poor in their striving for a better economic and social life.

Wielded by "idealists" who captured it, Legal Services too often instead has become an instrument for defense of militants and revolutionaries, whose sole and avowed objective is destruction of the established political and social order.

The certainty that this course, if pursued unchecked, will send the Legal Services project headlong toward oblivion was graphically expressed by columnists Rowland Evans and Robert Novak on this page Monday. Evans and Novak, two of the best of the reporters on the Washington scene, told of Legal Services lawyers representing members of a Black Panther front organization in New Orleans. The defendants were charged with attempted murder, assault and other felonies.

"Thus, taxpayer funds were used to defend a violence-prone black extremist organization," said Evans and Novak. "This clearly violated federal law barring antipoverty legal services from criminal cases and violated federal policy requiring these services to be used directly by the poor and only the poor."

The columnists also cited a Dallas Legal Services project case, as illustrative of similar violation of federal policy.

"Using federal funds intended to help the poor, Legal Services there (in Dallas) defended the underground publisher, Brent Lasalle Stein (Stoney Burns)."

The New Orleans and Dallas cases are believed primarily responsible for the firing of Terry F. Lenzer, head of the Federal Legal Services program, and his deputy, Frank Jones, by OEO Director Donald Rumsfeld.

Now, Ed Polk, controversial director of Dallas Legal Services, has blasted Rumsfeld's action and mounted a campaign demanding reinstatement of Lenzer and Jones. Polk, in fact, was responsible for Legal Services' entry into the Stein case, and other highly questionable cases.

Furthermore, a poverty target area group here has joined Polk in this misguided campaign and has appealed for funds to send a busload of supporters to Washington to attend Senate hearings on Legal Services. They can hardly devise a more effective course against their own best interests.

Said Evans and Novak: "What Lenzer failed to understand (and we add what the target area people and other supporters here of Polk's legal services philosophy fail to understand) is that Rumsfeld must control militant excesses or risk congressional obliteration of the antipoverty program—particularly its much-needed legal services."

It would be a terrible pity indeed if the militant excesses are not controlled and if those responsible for the excesses do succeed in killing the program. For if there is any segment of society which stands in dire need of legal representation in their true interest, it is the poor, for whom such representation must be provided without cost.

UNEMPLOYMENT AND THE WELFARE ROLLS

Mr. FANNIN. Mr. President, millions of Americans are deeply worried about two related problems—unemployment and the growing welfare rolls.

Unemployment is at the unacceptable level of 5.8 percent, and the problem promises to grow worse in the next few years as millions of persons now involved in the national defense start looking for new jobs. It will grow worse, that is, unless we can do something to plug the current American job drain.

A major cause of our current high unemployment is the flood of imported goods sold in this country, largely as a result of unfair trade practices abroad. Jobs and technology are now the Nation's biggest exports—and we have to stop this some way.

Advocates of so-called "free trade" give us plenty of rose-colored theory but no practical answers to our employment dilemma.

Where are we going to find employment for the tens of thousands of Americans whose jobs are being exported each year?

When I ask the free trade theorists about this, they do not have any answers.

They speak in vague terms about American technology creating new industries. But what new industries?

The theorists talk about expansion of service industries and putting more people in professional ranks. But how does this create anything that we can trade with other nations? What will we have left to exchange for the goods that we need—goods that we no longer manufacture here at home?

I am not advocating a return to isolationism or protectionism. What I am saying is that we must bring some order and control to our rapidly deteriorating situation in manufacturing and world trade.

Mr. President, there are numerous examples of what is happening to American jobs as a result of the deluge of imports.

For instance, Department of Labor statistics show that in fiscal 1970 there was a loss of 25,000 jobs in manufacturing radios and television receivers. It is evident that import competition was responsible for much of this job drain.

In 1966, imported consumer electronic products claimed less than 10 percent of the American market. By 1969 the imports soared to 21.5 percent of the American market. Now, in 1970, the imports have taken over almost one-third of the American market.

In the first 9 months of this year, the sales of American-made television sets declined 25 percent. At the same time, total imports increased 12.7 percent over last year.

This is an alarming trend that must be at least slowed if not reversed.

The extent of our problem is such that it is now hard to find genuine made in the U.S.A. products in some areas of manufacturing. And it is difficult to identify essentially foreign-made merchandise. Products with well-established American trademarks are now, in many cases, made largely out of parts manufactured abroad.

Mr. President, we need to reexamine the American foreign trade philosophy that has been followed since World War II. Conditions have changed tremend-

ously. We are now being exploited by the very nations our foreign trade policy was originally designed to help in recovery from the war.

America has moved unilaterally toward free trade in the past three decades. We remain essentially alone in this crusade for free trade.

Part of our current dilemma comes from the Kennedy round of negotiations under the General Agreement on Trade and Tariffs—known as GATT. Attempts have been made and are being made to sell us a bill of goods on the Kennedy round. We are bombarded with propaganda about GATT.

In fact, it is made to sound as though the General Agreement on Trade and Tariffs is a sacred pact that cannot be tampered with.

Actually, Congress never has given sanction to GATT. Some authorities doubt its legality. As for the Kennedy round of tariff discussions during the last decade, this was a dismal failure as far as U.S. trade is concerned.

Other nations have flouted the agreements reached in the Kennedy round. The only time these foreign powers abide by the principles of free trade or by the provisions of GATT is when it is to their distinct advantage.

When the original GATT agreement was written in 1947, the United States had $10 billion trade surplus. Now it takes some fancy bureaucratic book juggling to make it look as though we have a very slim trade surplus. Actually, we are in a deficit situation.

Supporting revision of our trade laws is not the most popular thing to do at this time. Self-styled consumer advocates and spokesmen for foreign interests are swarming around Washington these days ready to whip up public emotions against any law that might inhibit cheap imports.

It is my contention, however, that what is pro-consumer. It is pro-labor. It is pro-American business. If a person is to be a consumer, he has to have an income. And most Americans depend on their jobs for this income. When the jobs go, so goes the ability to consume.

Mr. President, there are three large contributors to our current job drain.

First, there are the unions who have caused many industries to take flight overseas. Irresponsible wage demands have made it virtually impossible for American plants to compete in the world market in many instances. Union leaders have been appallingly shortsighted as they push industries into oblivion.

Some industry leaders must share the blame. They have taken the easy way out. They cave in to wage increase after wage increase then suddenly move their operations to foreign shores where inexpensive and eager labor awaits.

The third major factor in the job drain is the unfair competition from abroad. Foreign manufacturers are using trading tactics that are denied to American businessmen. The United States Government has failed to enforce such statutes as the Antidumping Act and the countervailing duties law. In addition, our trading partners have closed their doors to a number of American-made products.

Because of the combination of circumstances, the United States is now in a serious predicament. One industry after another is suffering serious cutbacks in employment. One industry after another is faced with extinction.

As the economic theorists once envisioned it, the shift in industries from one nation to another was supposed to be a long and drawn out process which happens over a long period of years. These theorists conceded that there would be some temporary hardships, but that adjustments would be made gradually in the gentle flow of time.

This is the jet age. Industries pick up and move over night. Small towns which once had thriving small plants are now dying pockets of poverty. Workers who thought they were employed for life now find themselves out on the street.

Some people are saying that this does not matter—all we have to do is to expand the welfare system to take care of these unemployed workers.

This is obviously ridiculous. Expansion of welfare would be felt the most by struggling workers who will have to foot the bill to pay the way of the unemployed.

Some people are saying we could take a stopgap measure by encouraging trade with Communist nations. That is equally ridiculous. The Communists would take advantage only of any trade which would help them to reach their pronounced goal of burying us.

Attempts are being made to intimidate Congress by warning that the trade bill could touch off a disastrous international trade war. We are told all kinds of dire steps may be taken in retaliation.

If this is the case, then our trading partners are not nearly as wise as I think they are.

Other nations know they now have much to lose than us. Many of the items we sell abroad are essential to other nations and they could not possibly close their doors to these products.

One example frequently mentioned is soybeans. Farmers fear that the trade bill could result in Europe rejecting American soybean exports.

Europe consumes 5.2 million tons of soybeans, but produces only 50,000 tons. So it is that Europe must have more than 5.1 million tons from the United States—and there is no other source for this quantity. European businessmen are too smart to cut off this trade.

Even if we pass this trade bill, America still will be the model of free trade when compared with the other major powers.

Many American products are virtually excluded from markets in other major trading nations. Just try selling American television sets in Japan. You certainly could sell them—if you could get them into the country.

Mr. President, this trade bill is simply an attempt to bring some commonsense and reality to our system of dealing with imports. Our free trade dream bubble has burst. Our task at this point is not to apportion the blame, but to make repairs while the American economy is still repairable.

ARCHITECT-ENGINEER FEE LEGISLATION PREMATURE

Mr. PROXMIRE. Mr. President, I must register my objection to the bill H.R. 16443 which is designed to lock into the law the present method employed in the Government for procurement of architecture-engineering services without competition. In my opinion, hasty action by this body on this bill is most unwise under the circumstances at the present time.

This bill has been reported from the Senate Government Operations Committee without hearings, and the report itself seems to differ substantially from the legislative history which accompanied the amendment made on the floor of the House designed to assure adequate competition in the procurement of architect-engineering services.

Even more importantly, this Congress enacted Public Law 91–129 just last year creating a high-level commission to study procurement practices in the Government and to recommend ways in which they might be improved. We are informed that the distinguished chairman of the House Government Operations Committee and a member of the Commission informed the House during its debate that this very subject matter is currently under study by the Commission.

Can we not wait to see what recommendations the Commission might make? They are studying how best to contract for professional services of all types, and we should at least have the benefit of that study before enacting this bill which relates only to one profession.

My staff has been informed by members of the profession that the reason it is so important to enact this bill now is that, without such a law, the Comptroller General would move to enforce the opinion he stated in his 1967 report and declare illegal any architect-engineer contract which was entered into without competition.

The Comptroller General himself in a letter to the Senate Government Operations Committee and in testimony before the House Government Operations Committee has recommended that the action be deferred pending the report of the Commission on Government Procurement. The Comptroller General's ruling was made prior to the establishment of the Commission on Government Procurement. To make certain of his position, we have contacted him today, and he has authorized me to give the Senate assurance that no action is contemplated on the part of the General Accounting Office in view of the Procurement Commission's study. He advises me that he has also given this assurance to the associations involved. I fail, therefore, to see why this bill should be enacted. Certainly there is time to give it careful and more considered review after the Congress has had a chance to receive the report of the Procurement Commission.

TICK! TOCK! THE TRILLION DOLLAR CLOCK

Mr. PROXMIRE. Mr. President, on Tuesday, December 15, it was announced that the gross national product had reached $1 trillion. In anticipation of this event, the Commerce Department constructed a "clock" which continuously registers the estimated annual rate at which our economy is turning out goods and services at any particular moment. President Nixon visited the Commerce Department on December 15 in order to watch this clock pass the trillion-dollar mark. I understand that various distinguished Government officials took advantage of this occasion to speak with pride about the size and the productive capacity of our economy.

I was not present at this ceremony. However, I want to go on record as being as impressed as everybody else with the wonderful productive capacity of the American economy. I also want to make a few other points about the present state of our economy which I suspect were not emphasized at the Commerce Department ceremony.

CLOCK MEASURES CURRENT DOLLARS

Of course, our economy may or may not have passed the trillion dollar mark at 12:02 p.m. on December 15. We do not yet have available the data to tell us what has actually happened to the gross national product during the current quarter. But I do not mean to quibble. If GNP did not reach a trillion on December 15 it surely will do so at some time this month. The reason it will do so is because the Commerce Department clock measures GNP in current dollars.

This means that when prices go up, dollar GNP goes up even if real output has not increased at all. Just the continued inflation which we have had over the past 3 months will have brought current dollar GNP over the trillion dollar mark before the end of this quarter.

CLOCK RUNS SLOW—SOMETIMES BACKWARD

Unfortunately, the numbers on this clock tell us nothing about what is happening to output in real terms. If we had a clock which measured total output after adjustment for price increase it would tell a very different story. During some recent quarters it would have run backward, for we have recently experienced some quarters when real output declined. Unfortunately, I feel sure that the current quarter will be another of those disastrous time periods when the level of real output is going down, not up. All the indicators for industrial production, retail sales, employment, hours of work and so forth, indicate that real output has been declining over the past few months. Of course, this was partly due to the auto strike. Similarly, any increase in real output we see in the economy in the months immediately ahead will be partly due to the recovery from the auto strike. But even after making all reasonable adjustments for the statistical distortions produced by the strike, we are still left with a picture of an economy which is far from healthy.

SOME OTHER CLOCKS?

By itself, a clock which measures current dollar GNP is not very useful. I propose that the Commerce Department consider constructing some additional clocks. A clock to measure the instantaneous rate of price increase would be very useful. It would be simple enough to construct, for, despite a great deal of rhetoric about changes in the rate of change, the rate of price increase has actually been fairly constant in recent months. Each month for the past 16 months, the Bureau of Labor Statistics has reported again that the wholesale industrial price index has increased between 3.4 and 4 percent over its level of a year earlier. The GNP deflator, a more comprehensive measure of price changes increased at an annual rate of 4.3 percent in the second quarter and 4.4 percent in the third, not really a very significant variation.

WHY NOT AN INFLATION CLOCK?

So, I suggest an inflation clock even though its hands might have to point constantly to the same rate of price increase. I suggest too, an unemployment clock. Based on our experience for the past 12 months, an unemployment clock could tell us that the ranks of the unemployed are being swollen by 1,897,000 persons per year, or 5,197 persons per day, or 217 persons per hour.

A REVENUE CLOCK?

We might also have a revenue clock. This clock could be set to measure the instantaneous rate at which the Federal Government is losing revenues due to the impact of the recession on tax payments. Based on 1970 experience, this clock could tell us that the Federal Government is losing revenues at the rate of $15 billion per year, or $41 million per day, or $1.7 million per hour.

CLOCKS FOR POLLUTION, DEMOLITIONS, AND ELECTORAL VOTES?

I am tempted to go on and on. We could have clocks to measure the hourly amount of pollution which our trillion dollar economy pours into the atmosphere. Clocks to measure the rate of deterioration of our housing supply. A double-faced transportation clock—one side to measure increases in average delay experienced by commuters, the other to measure increases in Federal financial commitments to the SST and the Penn Central. We could even have political clocks to measure the rate at which the administration hopes it is capturing 1972 electoral votes through new Cabinet appointments.

THURBER AND CLOCKS

I am reminded of James Thurber's story, "The Thirteen Clocks." This marvelous fantasy describes a cold and gloomy old castle inhabited by a cold, gloomy, hard-hearted old duke. There are 13 clocks in the castle, but none of them will run. They all froze 7 years ago at 10 minutes to 5. Let me read just a bit of this wonderful story.

> Travelers and mariners would look up at the gloomy castle on the lonely hill and say, "Time lies frozen there. It's always Then. It's never Now."
>
> The cold Duke was afraid of Now, for Now has warmth and urgency, and Then is dead and buried. . . . The Duke was afraid of Now, but he tampered with the clocks to see if they would go, out of a strange perversity, praying that they wouldn't.
>
> Tinkers and tinkerers and a few wizards who happened by tried to start the clocks with tools or magic words, or by shaking them and cursing, but nothing whirred or ticked. The clocks were dead.

I think our economy is in somewhat the same state as these 13 clocks. It is frozen. It is stagnant. It is not growing. The tamperers and tinkerers play with economic policy. The administration utters magic words. But nothing happens. The economy does not grow. Is the administration afraid of "Now"? Do they secretly pray for continued stagnation? Surely not. Yet one is certainly puzzled by the absence of any positive program to start our economy going again.

STAGNATION CLOCKS

I thought of suggesting that the Commerce Department build 13 clocks, all pointing to stagnation, but so many clocks might only confuse us. I want to propose in all seriousness that one of the best single measures of the health of our economy is the gap between what is actually being produced and what we could produce if our manpower and other productive resources were fully employed. This gap can be estimated from the potential GNP figures provided regularly by the Council of Economic Advisers. If we had a clock which measured the instantaneous gap between actual and potential output—and I think such a clock would in fact be a very good idea—it would tell us that between the third quarter of 1969 and the third quarter of 1970 this gap increased by $46.8 billion. This is a rate of $900,000,000 per week, or $128,571,429 per day, or $5,357,143 per hour.

These figures are based on the third quarter. We are now in the final weeks of the fourth quarter. I asked the Joint Economic Committee staff to make some rough estimates of how large the GNP gap has now become. They tell me that it has just about reached the $75 billion mark. It can be expected to reach $100 billion sometime during the first 3 months of next year. I do not think we should let these markers of our economic performance pass unnoticed. During the early part of next year, resources capable of producing $100 billion worth of goods and services per year will be lying idle. Certainly this is as important to keep in mind as is the fact that inflation has pushed the economy over the trillion dollar mark. I hope that my reminder today of the size of the gap potential and actual, between promise and performance, will serve to introduce a becoming touch of humility into the rhetoric of our economic policymakers, and more importantly, I hope it will serve to encourage in all of us a greater sense of urgency regarding the need to do what must be done to bring the economy back to full employment.

LIVING ON HOPE

Mr. GRIFFIN. Mr. President, George Cantor of the Detroit Free Press has written with sympathetic understanding about the families of Michigan men who are held prisoner by the Communists in Southeast Asia.

I ask unanimous consent that Mr. Cantor's article be printed in the RECORD.

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

[From the Detroit Free Press, Dec. 16, 1970]

POW FAMILIES LIVING ON HOPE

(By George Cantor)

Almost three years ago a young Army officer from Warren was shot down while piloting a helicopter near Hue, South Vietnam.

Two months later a woman civilian released by the Vietcong identified a picture of Michael O'Connor as an American she had seen being held as a prisoner of war.

Then the darkness closed in. After 32 months of suspended hope, the O'Connor family has yet to hear another word about the fate of Michael.

Letters they send him care of the Vietcong are returned. Prisoner lists put out by the North Vietnamese government do not contain his name. All they can cling to is that one identification from an Army photograph.

"It's always in your mind, never far below the surface," said his father, Virgil. "You wake up in the middle of the night and it's the first thing you think of.

You never know how you'll react to anything. The emotional impact at church—it's a source of strength for us, but we remember it as the place where the family was all together."

And always there is the terrible fear that there will be no end to it, that the O'Connors may never know what happened to their 23-year-old son.

The O'Connors are one of about 50 Michigan families with relatives in the enemies' POW camps. The lucky ones have been told officially that their men are in captivity.

Others, like the O'Connors and the John Sexton, Jr. family of Warren, base their hopes on sketchy identifications or Vietcong propaganda that mentions their men.

And a few, like the family of Patrick Carroll of Southgate, proceed only on the knowledge that their men haven't been listed as dead and on the suspicion that the enemy hasn't given out all the names of those it holds captive.

A total of 457 men are officially listed as POWs by the Vietcong and North Vietnamese. But another 1,090 American servicemen still are described only as "missing in action." There is no way of knowing how many of them are dead and how many are prisoners.

Even the families at home aren't sure how many of them there are. Sen. Robert Griffin's office counts 52 in the state. But Virgil O'Connor, chairman of the Prisoner of War Committee of Michigan, has been able to contact only 44 Michigan families of POWs.

The military holds periodic briefings for the families but has not encouraged them to organize or to seek publicity.

"But keeping quiet wasn't doing any good," said O'Connor, a financial analyst for Chrysler Corp. "We were just getting more and more frustrated. Public opinion seems to be the only weapon we have."

The state committee, affiliated with the National League of Families, has tried to mobilize opinion with letter-writing campaigns, bumper stickers, mailbox tags and speeches to church groups, unions, the Jaycees, anyone who will listen.

"People don't seem to understand the situation," said the elder Sexton, who works at Chevrolet's Warren plant. "They know my boy is a POW and they keep asking me at the plant what's the latest I hear from him.

"No one realized I haven't heard anything from him since he was captured 16 months ago. They just don't believe me when I tell them that."

First Lt. Patrick Carroll, 28, whose F-100 jet went down 13 months ago, is among those listed as missing.

His wife Kathleen and their two daughters live in the Southgate apartment Carroll moved them into eight days before being shipped overseas.

It's an anonymous sort of place, the kind that doesn't bother to list names next to the doorbells. For the first several months after her husband was shot down, Mrs. Carroll was content to retreat into it.

"You don't know what to do, at first," she said. "You just don't believe the uncertainty can go on. But then you begin realizing, egads, there are quite a few men in this situation and it could be years and years and years.

"When I started to realize that there were so many others in the same boat, it made it a little easier. If you had told me a few years ago that I'd be out giving speeches to the steelworkers union or being interviewed by newspaper reporters, I never would have believed you. But it feels so good to be doing something."

Mrs. Carroll, a slight, attractive woman in her mid-20s, was raised in Allen Park and met her husband, a career Air Force man who was brought up in Berkley, while she was working for Michigan Bell. They were married in 1965 and have two daughters.

"Pat just brought us back here from Arizona where he had his training before he left for Vietnam. We hadn't even bought furniture yet," she said.

"I was told that he was missing in action on Nov. 2, 1969. Then last April a ground crew found a downed plane they thought was his. There was no ejection seat so they felt he had a chance to parachute out.

"Given half a chance I think he could have taken care of himself. He'd had enough training."

Although she's had no word at all about her husband, Mrs. Carroll put together an 11-pound Christmas package of medicine and nutritional food this month that she hopes somehow will get to him.

Increasingly involved in the POW committee, she has brought along her neighbor across the hall, Mrs. Neil Crowley, who has plunged into the activities with a good deal of verve.

"I have no personal involvement except for Kathy," said Mrs. Crowley. "It's just a feeling that these men were fighting for us and we should do something for them. It isn't a political thing at all. It's humanitarian. But the moment you mention Vietnam, people assume you're involved politically."

Mrs. Crowley's enthusiasm has transmitted itself to the more reserved Mrs. Carroll.

"Kathy spoke to about 200 steelworkers the day before Thanksgiving and it was something to see," Mrs. Crowley said. "She didn't know in advance that she would be called on and she hadn't prepared anything to say.

"But she got up there and you could just feel every guy in the place rooting for her. After she'd spoken two sentences you could have heard a pin drop. They voted to back our campaign unanimously."

John Sexton's parents don't go in much for speech-making. They restrict their activity to passing out "Free the Prisoners" tags and forms for the "Tell It to Hanoi" letter-writing campaign.

But even that is something to get them out of the house, empty now except for them and the insistent ticking of a wall clock and the closets and cedar chests full of their son's clothes. His room has remained almost untouched since the day he left for Vietnam four years ago, right out of Warren's Lincoln High School.

"Both of us had to go under a doctor's care for nerves," said Sexton, whose small frame and spectacles seem out of sync with his thickly muscled arms.

"It happened a year ago August. John was leading an armored patrol that was struck by rocket fire. He was wounded and the evacuation teams couldn't get him out. The next morning his tank was empty, surrounded by sandal prints.

"Then one month later our troops found leaflets from the Vietcong in which John supposedly sent messages to his buddies saying he was all right and recovering in a hospital.

"And that's all we ever heard."

The facts are all neatly summarized in a two-page, stapled statement provided by the Army that Mrs. Sexton reads from. The pages are well worn by the Sextons, as though they had pored over them repeatedly in the hopes of finding the hidden word, the phrase that would put their fears to rest.

"The day after I got the news I went to my supervisor," Sexton said. I explained the situation and told him I didn't know if I could work and he said I could come in any hours I wanted. There was a lot of overtime then, so I wound up staying at the plant 12 and 14 hours so I'd get home exhausted and could go to sleep.

"Even so, every time a car would pull up or the phone would ring, we'd look at each other and think: 'Well, this is it.' "

Families like the Sextons, the O'Connors and the Carrolls were reluctant to speak out until recently. But as the Nixon Administration consciously moves the POW issue to stage center and public awareness increases, the affected families have changed their attitude.

"We were told at the start that secrecy would protect the prisoners if they were still at liberty, and we'd also protect ourselves from harassment by anti-war groups," O'Connor said. "So we kept quiet and nothing happened."

"Now we feel we have to become more militant ourselves and alert people to what's going on so more pressure will be brought on the Vietnamese."

The families go out of the way to stress the apolitical nature of their campaign. They feel it's an issue that transcends the question of the war itself.

"I don't know who's right in Vietnam," Sexton said. "All I know is that the boys had to go and we should do all we can to get them out.

"I feel every day they spend there is a day injurious to their health and mentality. It seems to me that if some of these politicians who are always criticizing—Fulbright and Kennedy and McGovern—would use their good offices in a different way it would be better."

The name of H. Ross Perot, the Texas millionaire who tried to airlift supplies to the POW's last Christmas, comes up repeatedly in conversations with the families. Although he failed, many of the families feel that Texas POWs have been given greater access to mail from home since that venture.

"If someone like Henry Ford would get behind us in this state it could make a difference," Sexton said. "Why should the Vietnamese listen to me and my relatives? But they might listen to a man like him."

The airborne raid on the North Vietnamese prison camp last month encouraged the families. They weren't as much concerned about the chance their relatives would be brought out as they were cheered to see public attention riveted on the POWs under such dramatic circumstances.

Most of all, the families fear their men are being used as pawns in the Paris peace talks, that the Vietnamese Red intentionally withhold information on the POW's as a psychological weapon.

"Being a prisoner is a contingency of war," O'Conner said. "But subsequent treatment of the prisoners is something else. You have to wonder what kind of people these Vietnamese are.

"If this is part of their culture, of their social forms, then their make-up must be rather primitive. They boast of their 1,000 years of culture, but there must not be much to it if this is how it leads them to behave.

Overall, though, the POW-families seem more baffled than vindictive toward the enemy. They try to equate the situation in terms of their own experience and attitudes and nothing will balance. The numbers slip from their grasp and obey no law known to them.

All that they know for sure is that Michael O'Connor's snapshot, taken the day he left for Vietnam, sits in its frame in a Warren living room.

And that Darlene Carroll, 4, tells her playmates not to go into the living room because her mother is working "to bring my daddy home sooner."

And that John Sexton's clothes hang the way he left them in his room before he went half a world away to vanish in Asian void.

ORDER FOR RECESS FROM CLOSE OF BUSINESS SATURDAY UNTIL 10 A.M. ON MONDAY

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until 10 a.m. on Monday morning next.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

What is the will of the Senate?

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 8 o'clock and 42 minutes p.m.) the Senate took a recess until 9 a.m. tomorrow, Saturday, December 19, 1970.

NOMINATIONS

Executive nominations received by the Senate December 18 (legislative day of December 15), 1970:

U.S. Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of commander:

James W. Brawley, Jr.	Paul E. Peterson
Robert E. Nielsen	Richard B. Eldridge
Earl E. Martin	William P. Penney
Raymond E. Womack	Rudolph T. Sommer
Frank E. Braman	Robert C. Nichols
William C. Parish	Richard M. Connor
Richard W. Michaels	Lea I. Levy
Douglas B. Thurnher	Robert Farmer
Henry J. Harris, Jr.	John C. Hanson
James C. Osborn	Karl F. Welty, Jr.
Harold E. Fallon, Jr.	Richard H. Wight
Richard D. Thompson	Ronald C. Eastman
Arnold B. Beran	Mark W. Byrd
Donald M. Morrison Jr.	Robert H. Elkins
	Donald P. Wachtway
Donald B. Davis	Theottis Wood
Thomas P. Nolan	Duane P. Gatto
Peter J. Rots	Ralph T. Martin
Everett L. Crowell	Robert E. Hynds
Ralph Z. Delgiorno	Dorwin W. Newman
John R. Erickson	Philip P. Coady
Thomas T. Matteson	Robert A. Janecek
Harry J. Reckitt	Franklin E. Thrall
John P. Flaherty, Jr.	James G. Lang
Carol E. Conry	John J. Janda, Jr.
John R. Mitchell	Philip R. Spiker
Richard J. Marcott	Charles H. Leckrone
Edward B. Holtzman	Thomas W. Finnegan
Dick G. Taylor	Albert D. Super
Warren J. Frederick	Charles W. Busby
Waymond Davis	Gennaro S. Duca
Maurice V. Goodroe	Ralph W. H. Bartels
Bruno A. Forsterer	Jackson C. Arney
Milton J. Thompson	Emil Capinha
Jack A. O'Donnell	William E. Whaley, Jr.
William H. Dotson	
Carlton D. Leonard	Charles R. Corbett
Floyd A. Rice	Marvin D. Henderson
Benjamin S. Beach, Jr.	Leonard W. Garrett
Albert D. Grantham	Alan C. Peck
Roy E. Nichols, Jr.	Kenneth F. Franke
Ara E. Midgett, Jr.	Ernest Bizzozero
Russell E. Sawyer	John B. Ekman
Richard N. Westcott	John R. Wells, Jr.
Wallace A. Herrington	Eugene E. E. O'Donnell
Sanford H. Pierpoint	Martin H. Daniell, Jr.

The following-named members of the permanent commissioned teaching staff of the Coast Guard Academy for promotion to the grade of commander:

George P. Vance
Robert L. Demichiell

The following-named retired officer recalled to active duty for promotion to the grade of commander:

James A. Hadley

The following-named Reserve officers to be permanent commissioned officers of the Coast Guard in the grade of lieutenant:

Bobby T. Chambers	Robert C. Houle
David W. Kennedy, Jr.	Jerry L. Millsaps
John P. Shioli	

National Railroad Passenger Corporation

The following-named persons to be Incorporators of the National Railroad Passenger Corporation for a period of one hundred and eighty days following October 30, 1970:

Frank S. Besson, Jr., of Virginia.
David E. Bradshaw, of Illinois.
John J. Gilhooley, of New York.
David Walbridge Kendall, of Michigan.
Arthur D. Lewis, of Connecticut.
Charles Luna, of Ohio.
Catherine May, of Washington.
John P. Olsson, of Connecticut.

In the Marine Corps

The following named (Naval Reserve Officer Training Corps) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Adkins, Arthur A.	Jannik, Joseph, Jr.
Alvidrez, Frank C.	Jelinski, Joseph R.
Anderson, Barg A.	Kahrs, James R.
Ashley, William G.	Kasica, James A.
Ashton, David, Jr.	Kessack, Phillip D.
Bailey, David O.	Kletzel, Joseph R.
Bates, James M.	Knight, Edward A.
Baughman, Dale T.	Leinenbach, Joseph, Jr.
Beale, Frederick T.	
Benim, Thomas E.	Loring, Gregory S.
Bermingham, George C.	Lott, Douglas E.
	Maloney, Richard A.
Bloxom, James E.	Martinoli, Martin J.
Boeckman, Richard A.	Martinson, Martin J.
Boyce, Michael H.	McAdoo, Albert T.
Brown, Dennis L.	MacKenzie, John D.
Brown, Mark W.	McClure Ronald L.
Buck, Everett R., Jr.	McKinley, William W.
Burns, Frank N., Jr.	McGuire, Bernard J.
Carpenter, George E.	Merrill, Bruce E.
Caughlan, Thomas A.	Miller, Charles M.
Cavallaro, Richard C.	Miller, Stephen W.
Chadwick, David L.	Morris, Henry O.
Chaney, Christopher H.	O'Donnell, Hugh K.
	Owen, Garey D.
Christenson, Eric C.	Owens, Richard L.
Claunch, Gary W.	Patton, Robert S., Jr.
Cobb, James P.	Penrod, Roger E.
Cocke, John M.	Perea, Lawrence R.
Coffelt, Michael D.	Pittman, Clifford C.
Collins, James T.	Polk, James A.
Corley, Max A.	Prout, Bruce W.
Crandall, James A.	Quigley, Kenneth W.
Davis, Donald L.	Ray, Homer G. III
Davis, Hartley R.	Renz, Hilary J.
Davis, John A.	Revolinsky, Joseph A.
Decker, David G.	Ritterspach, Carl R.
DeWitt, Van D.	Roesch, Robert W., Jr.
Doermann, Geoffry M.	Schier, Kim B.
Dowd, Henry R., Jr.	Schneider, Robert L.
Dunkelberger, Thomas E.	Skinner, Paul D.
	Smaliey, Stephen H.
Easterday, Steven G.	Sobolewski, Thomas E.
Ellison, Stephen L.	
Featherkile, Steven M.	Spires, James M., Jr.
Ferguson, Ronald J., Jr.	Strock, James N.
	Stocks, Thomas J.
Flanagan, Robert M.	Stokes, Steven H.
Freeman, Robert J.	Stone, Donald S.
Gausch, Paul G.	Tamayo, Rudolph L.
George, Kenneth P.	Ullman, John B.
Gossett, William R.	Vansciver, Leroy D.
Goulding, Vincent J.	Vintar, James S.
Gouzie, David R.	Walker, Franklin, Jr.
Grant, Wyatt W., III	Walker, James H.
Greenough, Kent C.	Watson, Dale M.
Hadden, Oliver J.	Wesner, Michael H., Jr.
Hardin, Lloyd T.	
Harris, Michael T.	Wemlinger, James J.
Hatten, Steven A.	West, Richard D.
Hoar, Robert J.	Wilcox, James P.
Hughes, Jeffery O.	Williamson, David L.
Igo, William S.	Wilson, Cornell, Jr.
Jackson, Charles H., IV	Yates, Bobby L.
	Yost, John P.
Jacobs, Robert B.	

The following named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Amiotte, Donald P.	McIlroy, Hugh M.
Bogardus, David L.	Meade, Ronald B.
Farlow, Timothy N.	Michaud, Maurice G.
Gravseth, Arlo D.	O'Connell, James S.
Horn, James A.	Perkins, Ernest R.
Hughes, Patrick J., Jr.	Robertson, Raymond M.
Kunicki, Joseph A.	
Landry, Tony C.	Webber, Alfred W.
Mays, John S.	Whitney, John H.