ing River, Ohio, to the Michael J. Kirwan Dam and Reservoir;

H.R. 19436. An act to provide the establishment of a national urban growth policy, to encourage and support the proper growth and development of our States, metropolitan areas, cities, counties, and towns with emphasis upon new community and inner city development, to extend and amend laws relating to housing and urban development, and for other purposes;

H.R. 19504. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes;

H.R. 19855. An act to designate the lake formed by the waters impounded by the Butler Valley Dam, Calif., as "Blue Lake";

H.R. 19877. An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes;

H.R. 19890. An act to name a Federal building in Memphis, Tenn., for the late Clifford Davis; and

H.J. Res. 1162. An act to amend Public Law 403, 80th Congress, of January 28, 1948, providing for membership and participation by the United States in the South Pacific Commission.

On December 24, 1970:

H.R. 7311. An act 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;

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, and to authorize Secret Service protection of visiting heads of foreign states or governments, and for other purposes;

H.R. 17473. 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;

H.R. 17901. An act to improve judicial machinery by providing for the appointment of a circuit executive for each judicial circuit;

H.R. 18306. An act to authorize U.S. participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes;

H.R. 19333. An act to provide greater protection for customers of registered brokers and dealers and members of national securities exchanges;

H.R. 19857. An act to name certain Federal buildings;

H.R. 19885. An act to provide additional revenue for the District of Columbia, and for other purposes;

H.R. 19911. An act to provide additional foreign assistance authorization, and for other purposes; and

H.J. Res. 1420. An act authorizing the Honorable John W. McCormack, Speaker of the House of Representatives, to accept and wear the Cavaliere di Gran Croce, of the Order Al Merito della Repubblica, an award conferred by the Government of the Republic of Italy.

ADJOURNMENT

Mr. ALBERT. Mr. Speaker, as a further mark of respect for our deceased colleague, the Honorable L. MENDEL RIVERS, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Wednesday, December 30, 1970, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2633. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various facilities projects proposed to be undertaken for the Air National Guard; to the Committee on Armed Services.

2634. A letter from the Assistant Secretary of the Interior, transmitting the 14th annual report on the status of the Colorado River storage project and participating projects, pursuant to 70 Stat. 105; to the Committee on Interior and Insular Affairs.

2635. A letter from the Chairman, Federal Power Commission, transmitting a report showing information on the permits and licenses for hydroelectric projects issued by the Commission during fiscal year 1970, financial statements of proceeds derived from licenses issued by authority of the Federal Power Act, and the names and compensation of persons employed by the Commission during that period, pursuant to section 4(d) of the Federal Power Act; to the Committee on Interstate and Foreign Commerce.

RECEIVED FROM THE COMPTROLLER GENERAL

2636. A letter from the Comptroller General of the United States, transmitting a report on the improvement needed in the administration of the Federal program of aid to educationally deprived children in Ohio, Office of Education, Department of Health, Education, and Welfare; to the Committee on Government Operations.

2637. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of revised procedures implementing the Truth-in-Negotiations Act, Department of Defense; to the Committee on Government Operations.

2638. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in evaluating design requirements for construction and modernization of Veterans' Administration hospitals; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. EVINS of Tennessee: Select Committee on Small Business. Final report. (Rept. No. 91–1795). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRIEDEL: Committee on House Administration. House Joint Resolution 1419. Joint resolution authorizing the acceptance, by the Joint Committee on the Library on behalf of the Congress, from the U.S. Capitol Historical Society, of preliminary design sketches and funds for murals in the east corridor, first floor, in the House wing of the Capitol, and for other purposes; (Rept. No. 91–1796). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAYS: Committee on House Administration. Senate Concurrent Resolution 85. Concurrent resolution authorizing the printing of additional copies of Senate hearings on U.S. Security Agreements and Commitments Abroad; without amendment (Rept. No. 91–1797). Ordered to be printed.

Mr. McMILLAN: Committee of conference. Conference report on S. 1626; with amendment (Rept. No. 91–1798). Ordered to be printed.

Mr. MAHON: Committee of conference. Conference report on H.R. 19590; with amendment (Rept. No. 91–1799). Ordered to be printed.

Mr. PASSMAN: Committee of conference. Conference report on H.R. 17867; with amendment (Rept. No. 91–1800). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GARMATZ:

H.R. 20013. A bill to name a certain ship channel the "Fallon Channel"; to the Committee on Public Works.

By Mr. MONAGAN:

H. Con. Res. 798. Concurrent resolution relative to establishment of an emergency economic program to combat inflation and recession; to the Committee on Banking and Currency.

By Mr. RYAN:

H. Res. 1320. A resolution condemning the persecution of any persons because of their religion in the Soviet Union; urging the Soviet Union to permit the free exercise of religion and pursuit of culture by Jews and all other citizens; and urging that the Soviet Union allow the emigration of its citizens who wish to emigrate; to the Committee on Foreign Affairs.

SENATE—*Tuesday, December 29, 1970*

(Legislative day of Monday, December 28, 1970)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

They that wait upon the Lord shall renew their strength; they shall mount up with wings like eagles; they shall run, and not be weary; and they shall walk, and not faint.—Isaiah 40: 41.

Help us, O Lord, to run when we can, to walk when we ought, to wait when we must. In everything do through us only what is best for the United States, and give us wisdom to leave undone that for which we are not ready.

In Thy holy name we pray. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 29, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Monday, December 28, 1970, be approved.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, under the previous order, the Chair now recognizes the distinguished senior Senator from Colorado (Mr. ALLOTT) for not to exceed 45 minutes.

THE FACTS CONCERNING ASPECTS OF THE CAREER OF FORMER ASSISTANT POSTMASTER GENERAL WILLIAM J. HARTIGAN

Mr. ALLOTT. Mr. President, today it is my duty to bring to the attention of the Senate some facts which should concern the Senate and the Justice Department and which may, in the judgment of the latter, require legal action.

The facts concern aspects of the career of former Assistant Postmaster General William J. Hartigan. They center on the possibility that he was involved in acts which exceeded legal authority in the awarding of contracts for the transportation of mail. There now seems to be considerable evidence that these acts worked to the detriment of all taxpayers, all users of U.S. mail service, and our transportation system.

Senators know that during my 16 years in this body, I have seldom called for the resignation of a Government official. Most public servants, whether I agreed with their pholosophy or not, are honorable men of considerable competence. Only in extreme cases have I ever urged that someone in high office be removed from his position.

The case of Mr. Hartigan was such a case.

On September 22, 1967, after a yearlong battle over the conversion of surface mail transportation routes to air taxi and airline systems, I said at a Denver press conference:

> His actions have not been justified, from a cost of service basis, to the Congress. Accordingly, I believe that this nation can well afford to dispense with the services of Mr. Hartigan. Whether he resigns or whether his superiors, Postmaster General O'Brien and President Johnson dismiss him is immaterial to me. What is important is that we change our policy and direction, and to accomplish that objective, Hartigan must go.

I am now in possession of an extremely evenhanded and comprehensive report from the General Accounting Office. This report concerns certain actions taken by Mr. Hartigan while in Government service. The report indicates that my anxiety about Mr. Hartigan was even more well founded than it appeared at the time.

For those not familiar with Mr. Hartigan's background, let me recall a few points.

He was an associate of the late President Kennedy and when Kennedy took office in 1961, Hartigan became a White House aide. Soon after that he was appointed Assistant Postmaster General for Transportation and International Affairs. He held that position from August 1961 to May 1962.

He left in May of 1962 to help manage the election campaign of President Kennedy's brother EDWARD M. KENNEDY to be U.S. Senator from Massachusetts. After Senator KENNEDY's victory, Mr. Hartigan was anxious to return to Washington. By March 1963, he was reappointed to the same position he had left only a few months earlier.

For many reasons, some of which are documented in the GAO report, I began to call for his resignation in the fall of 1967 and repeated my request on January 23, 1968, in a speech on the floor of the Senate. Mr. Hartigan announced his resignation immediately thereafter, effective the end of February 1968. Two days later he was hired as a transportation consultant to the Sedalia-Marshall-Boonville Stage Lines, Inc.

In November 1968 he became a member of Sedalia's board of directors and on May 1, 1969, he became Sedalia's vice president.

I first became aware of Mr. Hartigan's suspiciously smooth slide from Assistant Postmaster General to Sedalia in April of 1969.

In a speech on the Senate floor on April 14, 1969, I said:

> I was determined to find out just why the discontinuance of RPO's was being pursued with almost ruthless determination by Mr. Hartigan at the Post Office.
>
> Finally, on September 22, 1967, my patience having been exhausted, I issued a statement calling for the termination of Mr. Hartigan's employment with the Post Office.
>
> Unbeknown to me and other legislators similarly concerned with this problem, but certainly known to Mr. Hartigan, another important event occurred in September, 1967.
>
> In that very eventful month, the Sedalia-Marshall-Boonville Stage Lines, Inc., began air taxi mail service. This firm, with headquarters in Des Moines, Iowa, had *no* air taxi mail service prior to that time. But, it wasted no time in acquiring prime contracts from the division of the Post Office which Mr. Hartigan administered.
>
> Mr. Hartigan, it seems, established himself as a Washington "transportation consultant", a broad general title which as anyone in the business knows, can cover a multitude of activities.
>
> However, later in 1968 . . . Mr. Hartigan became Vice President of the Sedalia-Marshall-Boonville Stage Lines, Inc. Undoubtedly, that firm was able to make Mr. Hartigan an attractive offer since its air taxi revenues had jumped from $60,030 in 1967 to $1,289,851 in 1968. The firm is now the largest air mail taxi carrier in the United States.

I followed up my April 14 speech with a letter to the Honorable Elmer B. Staats, Comptroller General of the United States, on April 21, 1969. I asked the Comptroller General to investigate the wholesale conversion of surface mail transportation routes to air routes. Specifically, I was interested in determining whether the changes were made too quickly, whether proper control and evaluation procedures were set up to facilitate the changes, and whether the cost of the conversion to air mail taxi service was justified in view of the alternatives available and the services rendered.

GAO readily agreed to make such an investigation. Several very competent investigators spent months pouring over records, not only here in Washington, but in some of the regional offices of the Post Office.

GAO's excellent report clearly confirms the initial suspicions concerning Mr. Hartigan. The report strongly suggests that Mr. Hartigan's actions in awarding certain contracts were illegal. His administrative practices in converting surface routes to air taxi routes were highly questionable. Arbitrary rate increases were granted by Mr. Hartigan especially to Sedalia-Marshall-Boonville Stage Lines, Inc.

All in all, the GAO report amounts to a startling disclosure of the kind of irregular administration Mr. Hartigan operated, especially during his second tenure as Assistant Postmaster General.

GAO has determined that the Post Office Department, under Mr. Hartigan and even subsequently, exceeded its legal authority in the use of emergency contracts for air taxi service for the transportation of mail.

In other words, the Post Office awarded 114 illegal contracts for air taxi service. Thirty-five of these illegal contracts were awarded to Sedalia, including 25 during Mr. Hartigan's tenure of office.

Let me quote from the GAO report:

> The circumstances that existed at the times the Department entered into emergency contracts did not constitute emergencies caused by fire, flood, major disaster, or any other type of calamitous visitation within the meaning of the Federal Aviation Act—the authority cited for such contracts. Rather, these contracts were awarded, in most instances, to initiate and/or continue service on routes which had been established by the Department to change from railway and highway post-office service to other transportation services or expand the geographic area for overnight delivery of letter mail, or both.
>
> Also, emergency contracting avoided the review and approval by the Civil Aeronautics Board of contract rates and routes that was required by the Federal Aviation Act.

I might add, Mr. President, that of the 410 air taxi mail contracts let by the Post Office during the period of review by GAO, only 201—less than half—had been approved by the CAB. The other 209 were emergency contracts and, therefore, were never reviewed or approved by CAB.

Thus did Mr. Hartigan—in an irregular and possibly illegal manner—approve emergency contracts to different carriers with great divergencies in the amount of money paid to the carrier. For example, on two routes, each requiring aircraft having a 2,000 pound mail carrying capacity, the round trip distances differed by only 12 miles. The rate on one route was 35 cents per mile and the other was 56.38 cents per mile.

I had mentioned earlier that SMB had become the largest air taxi mail carrier and that it had not previously had experience in the business, but this needs to be put into even more perspective.

The GAO report points out that SMB began to operate with the largest number of air taxi mail routes during the last 6 months of Mr. Hartigan's tenure of office although it had not been in the business prior to that point.

The GAO further points out that the Department awarded a number of contracts without formal competitive bidding. Indeed, some of those air taxi companies who did apply for a contract with the Post Office Department did not even have a commitment to obtain specific aircraft or pilots at the time they were being considered by the Post Office.

Some of the air taxi companies which were awarded contracts leased aircraft and subcontracted their entire operation, which was contrary to the Civil Aeronautics Board and Federal Aviation Agency regulations.

When some of the operators who had been awarded contracts by the Department unexpectedly terminated their service, Mr. Hartigan approved additional "emergency contracts" to replace the abandoned service.

I repeat again, that the law indicates that only fire, flood, major disaster, or any other type of calamitous visitation are criteria upon which emergency contracts may be awarded.

These emergency contracts were awarded with no advertising for competitive bids. GAO has pointed out that this practice resulted in air mail taxi operators receiving very favorable contracts which cost the American taxpayer a great deal of money.

Some of these emergency contracts, incidentally, were awarded to companies to compensate for their loss of surface mail contracts. SMB, by the way, had been in the highway post office business before it launched into its highly successful career in air taxi operations.

I noted before that Mr. Hartigan was from Massachusetts. Therefore, I found the example given by GAO concerning the award of noncompetitive contracts in the Boston postal region quite interesting. It seems that Mr. Hartigan approved five airmail taxi routes for Buker Airways with oral rate quotations over the phone. There was no bidding—not even any solicitations. This becomes even more interesting when it is noted that Mr. Hartigan was employed on a per diem basis as a transportation consultant to Buker Airways following his resignation from the Post Office.

Another example of the advantages of over-the-phone arrangements made by Mr. Hartigan turned up in the Minneapolis postal region. There, SMB was awarded three contracts even though the originating office had not solicited or received bids from SMB. Available records indicate that Mr. Hartigan signed the three contracts awarded to SMB on the basis of rate quotations obtained by Department headquarters. For two of the three routes, on which informal rate quotations had been solicited, SMB quoted rates higher than the quotation rates of some of the other bidders on both routes.

The irregularities either permitted or endorsed by Mr. Hartigan took many forms.

On an Indianapolis to Columbus route an "emergency contract" was let to Sedalia because the original operator had terminated service. However, when bidding for the original contract was being solicited, a firm known as Aero Tech Enterprises, Inc., was disqualified for bidding, because the only plane they had available was a Piper Aztec C, which, according to the Post Office Department, did not meet its emergency contract specifications. Interestingly enough, however, when Sedalia was later awarded this very same contract, it operated the service with a Piper Aztec C. Sedalia's cost was considerably higher than the original bid made by Aero Tech Enterprises, Inc., however.

On a route between Omaha and Grand Island, Nebr., Trojan Airlines was awarded a contract at the rate of 35 cents per mile. In March of 1969, Trojan asked to be relieved of its contract and Sedalia was immediately awarded another emergency arrangement. Without any advertising for bids, Sedalia's contract awarded a price of 56.5 cents per mile.

Speaking of rate increases, during the period from December 1967 through May of 1969, Sedalia had been granted by the Post Office Department a total of 34 rate increases on 30 different routes.

Some of these rate increases may not have been justified, because insufficient supporting documentation was required by the Post Office Department in making their adjustment decisions.

The majority of increases during that period were approved by Mr. Hartigan. GAO strongly questions some of those inceases because many of the cost items used to justify the request could have and indeed, should have been anticipated in the bidding price.

Mr. President, I could go on and on with such examples. The GAO report, which I have before me, is 82 pages long and I have just mentioned a few of the highlights of this report. It will be available to interested Senators and appropriate committee staffs. I must say this is a study that should be memorized by the members of the Committee on Post Office and Civil Service and by the staff of that committee.

In summary, we are dealing with two interrelated questions.

First, the role of Assistant Postmaster General Hartigan in the wholesale conversion of surface mail routes to air taxi routes and, second, the inadequate procedures on the part of the Post Office Department which permitted such changes to be made without proper evaluation, checks, and balances.

The GAO has completely substantiated my original charge that the replacement of surface lines and specifically the conversion to air taxi mail service was never justified to the Congress on a cost or service basis.

The use of air taxi service in certain corridors was particularly outrageous. The GAO concluded that air taxi programs were substantially more costly than commercial air service. Half of the air taxi routes invented by Mr. Hartigan and his associates had parallel commercial operations which could have been used.

Most of these commercial lines had a significant amount of cargo space available. The GAO also concluded that surface truck transportation was generally available on these routes and could have eliminated most of the cost of the air taxi service. Some of the air taxi routes have been operating at less than 50-percent capacity. On an average, they have only used 65 percent of the capacity contracted for.

The Sunday night air taxi routes were extremely costly because of the small quantities of mail. However, GAO had a great deal of trouble getting the proper information from the Department to provide the specific statistics in this regard.

Mr. President, the GAO, through its diligent efforts, has uncovered what well could be a scandal of major proportions. Without the facts available to me, I had concluded several years earlier that the Post Office Department and Mr. Hartigan were guilty of grossly irresponsible activity. As a lawyer, a former district attorney, and a Senator who has cross-examined literally hundreds of witnesses in the past 16 years, I know when questions are not being answered and when policies are not being justified.

Because the GAO has done such a splendid job of analyzing this problem, I intend to transmit copies of this report to the Government Operations Committee, the Post Office and Civil Service Committee, and to fellow members of the Treasury Post Office Subcommittee of the Committee on Appropriations.

However, because GAO has determined "that the Department exceeded its legal authority in the use of emergency contracts for air taxi service for the transport of mail" and because Mr. Hartigan was personally involved in the execution of most of these contracts, a good many of which benefits Sedalia, where he is presently employed, I am asking the Justice Department to review this matter to determine what, if any, action is appropriate.

One final note, Mr. President. Very shortly, because the Congress passed the railpax bill, a national rail passenger network will come into being. This network will operate fast, reliable passenger trains to and from key points throughout the Nation. With the inauguration of this kind of service, the reasons given by the Post Office Department for discontinuing its railway mail operations, will vanish.

Accordingly, Mr. President, I call upon the Department of Transportation, the Post Office Department, the Interstate Commerce Commission and the new Rail Passenger Corporation to explore means of returning the mail to these passenger trains where it is feasible.

Now, Mr. President, there is a great amount more in significance to this whole matter than that which I have just recited in my prepared text. During the middle 1960's I was at a great loss to understand where the movement was coming from to put all of our mail upon airplanes and transport it in this coun-

try. I do not know how any intelligent person could think there could be adequate service to Lamar, Colo., or Cooke City, Mont., or McCook, Nebr., or Garland, Nebr., or Sedalia, Kans., or Great Bend, Kans, or any of the thousands and thousands of other cities in this country, if it were done by air. Yet apparently that was the determination that was made.

When we see how one man who had the authority, or the office, which he used to do this, the implications it has had upon the economics in the Postal Service of this country are simply staggering, because when they pulled the mail off the railways and started establishing the air taxi routes for transportation of mail, which is what Hartigan did—many of which he later indirectly took profit from because he is now an employee of that same company—it gave the railways an excuse to come in, literally by the hundreds, and apply to the Interstate Commerce Commission to abandon passenger service.

That is why today, without the benefit of the RPO cars—where they used to sort the mail as the mail was being transported, and not dumping it in one terminal and hoping someone would sort it, but sorting it as they went along the railroad tracks—we have had such a breakdown in our postal service.

As far as I know, no committee of Congress ever told the Post Office Department, "We want to abandon RPO cars." Mr. Hartigan had it in that little old brain of his that if we went this route and if he could develop and help develop a broad transportation system at the air taxi level, that there was a great future business open for him. He made that future business opportunity as a transportation consultant, as a director of the Sedalia Stage Lines, and now as an employee of those stage lines.

So what have we had? Literally hundreds of small towns in this country, as a result of those policies generated in the brain of this man over in the Post Office Department, are today without any rail passenger service, because, as I have said, the dropping of the RPO cars from the passenger trains gave many of the railroads an opportunity, which I confess they frankly were looking for—a justification—for dropping of the passenger service. Trains have been dropped. They have been dropped in my State, and they have been dropped in the State of almost every Member of the Senate. And now we are left, those of us not only in the West but all over the United States, with recourse to driving our automobiles on the roads, taking buses on the roads, or even flying airlines if the particular town or city to which we want to go happens to be served by an airline.

To me this is one of the most tragic things that has happened. It is not that this man alone exceeded his authority in his office. It is not just that he actually set up and created a business by using his office, to wit, the Sedalia Airline Taxi Service—the stage line was already in existence—but it actually reaches over to affecting the entire economics of this country, and it enabled the railroads to abandon passenger service and to place in discomfort hundreds and hundreds and thousands of people in this country to whom no other mode of transportation is available now than their own cars and buses. And then we wonder why our roads and highways are crowded.

I want to read just two or three short portions from the digest of the Comptroller General's report, and I read from page 2, "Questionable contracting practices." It also goes into "Weak administrative practices." It also discusses the "Growth of air taxi mail service," and "Mr. Hartigan's involvement with Sedalia." It points out that during the last 6 months of Mr. Hartigan's tenure of office, Sedalia became the operator of the largest number of air taxi mail routes despite having no prior experience in the air taxi business. The report points out how, when a new contract was given—and I refer to this in my statement—the rate went from 35 cents a mile to 56 cents a mile, increasing the cost some 75 to 80 percent. The whole sordid picture makes one wonder how such a thing could happen. I read from the report:

GAO has determined that *the Department exceeded its legal authority* in its use of "emergency" contracts for air taxi service for the transport of mail. *The use of emergency contracts* was started during Mr. Hartigan's tenure of office when 114 emergency contracts, at an annual cost of $5.9 million, were awarded for air taxi mail service, of which 71 contracts (costing $3.4 million) were for initiating the service. Sedalia was awarded 35 emergency contracts for air taxi mail service, of which 25 were awarded during Mr. Hartigan's tenure of office.

The circumstances that existed at the times the Department entered into emergency contracts did not constitute emergencies caused by fire, flood, major disaster, or any other type of calamitous visitation within the meaning of the Federal Aviation Act—the authority cited for such contracts. Rather, these contracts were awarded, in most instances, to initiate and/or continue service on routes which had been established by the Department to change from railway and highway post-office service to other transportation services or expand the geographic area for overnight delivery of letter mail, or both.

Then, later, on page 3, the report states:

During the early months of the program, the Department *awarded a number of contracts without obtaining formal competitive bids and without adequate assurance that bidders were qualified.*

Then I skip some of the language, and it reads, further:

For example, Sedalia was granted 34 questionable rate increases, totaling $204,100 annually, on 30 of its air taxi mail routes.

And continuing:

Transporting first-class mail by air taxis was more costly than it would have been to transport the mail by scheduled commercial airlines or by available surface transportation. For example, GAO estimates that the annual costs of carrying mail on 47 air taxi mail routes were about $1.2 million more than the costs would have been if the same quantity of mail had been carried by scheduled commercial airlines. Costs would have been much less if surface transportation had been used. Also discontinuance of unneeded Sunday night air taxi mail service would save at least $569,000 annually.

So this is the sordid story of how the whole economy of the country was changed, how the whole postal delivery system of this country was broken down, how hundreds of thousands of people have been discommoded by mail service when they sought to convert it all to air. These are the things that are perhaps of greater significance than the activities of Mr. Hartigan.

Mr. KENNEDY during Mr. ALLOTT's address said: Mr. President, I want to state clearly now that I was completely unaware of the matter the Senator from Colorado would be discussing, but I reject completely the suggestion that Bill Hartigan left the service of the Government to participate in any way in my campaign. That is completely untrue and I reject it and resent the implications.

I would suggest that if the rest of the Senator's comments in any way reflect that kind of comment, it puts in serious jeopardy the basic premise of the Senator from Colorado.

I know Bill Hartigan and he had absolutely nothing to do with my campaign in 1962—absolutely nothing.

I make that suggestion as a point of interest, as I am sure the distinguished Senator from Colorado is interested in accuracy. But it is completely untrue. I do not know the source of the information of the Senator from Colorado, but I do know who was associated with my campaign in 1962, and Bill Hartigan had absolutely nothing to do with it.

Mr. ALLOTT. Mr. President, I will accept the Senator's explanation. However, the statement was made on the basis of Scripps-Howard reports at the time.

Mr. KENNEDY subsequently said:

Mr. President, this morning in a colloquy with my distinguished colleague from Colorodo, Mr. ALLOTT, I stated that Mr. Hartigan was not involved in my 1962 Senate campaign. I had not encountered him or remembered his presence in that effort, but I am now informed by my staff that he did come to Massachusetts, to do some campaign work.

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

Mr. ALLOTT. I yield.

Mr. MANSFIELD. I have been interested in what the distinguished Senator has had to say about the breakdown in mail service, and I agree with him that it has created a tragic situation throughout the country.

I was disturbed by the change from railway mail service to airmail service, so-called, because the net effect in the State of Montana, which was among the States mentioned by the distinguished Senator, was to bring about a deterioration in mail service, and what had been very good before with this change became very bad.

Speaking of railways, I have also been very much disturbed by the deterioration in its passenger service; the merger of various railroads, the taking off of train runs which served States like Colorado and Montana and others which are not too heavily populated and on which we depend a great deal.

I am further disturbed by the recent proposal made by the Secretary of Transportation, Mr. John Volpe, for whom personally I have a high regard, concerning the so-called Railpax system

which has created a state of confusion in Montana.

We do not know what is going to happen, if anything. We do not know what the plans really are, if any. We have seen maps in the newspapers which indicate what might occur. The result is that there is a state of confusion, uncertainty, and uneasiness.

All these matters are currently plaguing the rail industry. The distinguished Senator has brought out clearly a very important problem when he speaks about the decline and deterioration in railway mail service. It is one problem. I think we should add to it the fact that passenger service has declined in all too many instances. In many cases, it has resulted in the abolition of passenger runs.

Unfavorable mergers have taken place, and now we have before us, in this most important area of transportation, a proposal known as Railpax, about which none of us know anything, but which, I repeat, is causing great uneasiness and great concern. So I congratulate the Senator for delving into one bad feature of an industry which is not feeling too well at the moment. Perhaps what is called for is a more thorough investigation into all aspects of what affects the railroads of this country at this time.

Mr. ALLOTT. I appreciate very much the remarks of the Senator from Montana. I mentioned Montana in my remarks because the distinguished Senator was on the floor, and his problems are very similar to our problems in Colorado.

I do not think we are being provincial or parochial in this matter in the least respect, because I suspect that the same problems confront at least 90 percent of the geographic area of this country. As the Senator has said, we are pretty well aware that the railroads, for a number of years, have not overextended themselves to serve passengers.

Mr. MANSFIELD. That is right.

Mr. ALLOTT. But when this chain of events was set in motion over in the Postmaster General's Office, converting to this air taxi service business—and I cannot find out where the decision came from, myself—when this chain of events was set in motion by this one man, and it looks as though, whether he did anything illegal or not, he always had his eye on the fact that he would have a good business to go into when he left office, the far-reaching effect of it has been to give the railroads an excuse to abandon their passenger service. Thousands of towns in the United States—and that is probably not an overstatement, because there are about 4,000 counties—are left without any rail passenger service.

The traveling of mail has broken down. I remember questioning Postmaster General O'Brien; I had an instance where, even with airmail, it took me 5 full days to get an airmail letter from here to Salt Lake City, and the man who got it was so angry that he folded up the envelope and put it in another envelope and sent it back to me, so I got in back in 4 more days, making 9 days for air service.

So this problem did not begin with the present administration. In fact, it has improved some. I am not trying to indict an administration; but we have a long, long way to go before we solve the problem.

Mr. President, I suggest the absence of a quorum without relinquishing my right to the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALLOTT. Mr. President, I yield the floor.

ORDER FOR THE SENATE TO CONVENE AT 9 A.M. WEDNESDAY AND THURSDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on tomorrow and Thursday the Senate convene at 9 o'clock.

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

ORDER FOR TRIBUTES TO SENATOR MURPHY TOMORROW

Mr. MANSFIELD. I ask unanimous consent that on the approval of the Journal tomorrow, 1 hour be set aside for tributes to be given by his colleagues to the distinguished Senator from California (Mr. MURPHY).

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

ORDER OF BUSINESS

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, will the distinguished assistant majority leader yield to me?

Mr. KENNEDY. I yield such time as the majority leader desires.

TRIBUTES TO SENATOR TYDINGS OF MARYLAND

Mr. MANSFIELD. Mr. President, this is a week of sorrow and of strain—sorrow in the fact that some of our most highly respected colleagues are leaving the Senate at the end of this legislative week, and strain because of the fact that this is the final week of the 91st Congress.

This institution is made up of a close-knit body of men and women who, because they are Senators, have common interests and common objectives, differing in degree at times, but all seeking to do the best that can be done for the benefit of the Nation as a whole.

Among Senate ranks, no one has worked harder in that direction than has the distinguished senior Senator from Maryland (Mr. TYDINGS).

It is with personal sorrow that I note the departure of JOE TYDINGS of Maryland—personal because he has a Montana interest. He has developed a personal interest in the welfare of the Blackfeet Nation and on occasion he has brought Blackfeet youngsters to his home in Washington during the summer, there to give them a touch and a feeling of life as it is in this part of the country.

The Blackfeet think highly of JOE TYDINGS. He is a chief in the tribe. He has many warm friends among its members. Because of his interest and affection for these people, it has been, in turn, an interest in the State of Montana as a whole.

We look upon JOE TYDINGS many times as the third Senator from Montana. He has served his State and the Nation well. He has been an outstanding Senator and did so much particularly to develop and improve the Nation's legal machinery and in turn its ability to deal with crime and all the other matters that arise within the Nation's legal system.

So, as I say, I look upon JOE TYDINGS as a close personal friend. I look upon him, too, as an outstanding advocate in behalf of the reform of some of our basic institutions that need so much of our attention. He has worked hard and served well. He will be missed.

I regret that he is leaving this body. But I do want him and Ginny and the rest of his family to know that he takes with him from all of us our good wishes and affection and our deep respect.

Mr. KENNEDY. Mr. President, we pay tribute today to a tough man and respected colleague—JOSEPH DAVIES TYDINGS.

JOE TYDINGS has never been one to duck difficult problems, or issues, or responsibilities. He has been a fighter all his life. And imbued from his earliest upbringing with a sense of public responsibility, JOE TYDINGS has been a fighter in recent years for the people of Maryland and the Nation generally—as a State legislator, as U.S. Attorney, and as Senator.

His legacy of accomplishment in the Senate is impressive. In one term, just 6 short years, he has achieved more than many men achieve in a lifetime.

He rapidly attained a leadership position, and in this Congress, for example, was the youngest Member of either House to chair a standing committee.

He wrote or sponsored or helped pass into law progressive legislation in a wide range of areas—court reform, crime control, civil rights, family planning, environmental quality, drug control, education, and countless other areas. He has been a doer, not a talker. And the results of his work can be found in laws on the books today which will help literally millions of Americans in the months and years ahead.

JOE TYDINGS has had the vision and the courage to tackle the controversial issues as a Senator—not because it was the politically popular thing to do, but because it was the right thing to do.

An avid hunter from a hunting State, he advocated effective gun-control legis-

lation to disarm criminals without inconveniencing sportsmen.

A lawyer by profession, he opposed two unfortunate nominations which threatened the stature and quality of the Supreme Court. And he authored and guided to enactment numerous landmark measures to improve our Federal courts —including major reform of the jury system, a Federal Judicial Center to provide overhaul of the U.S. Commissioner system, more Federal judges, and so on.

A man who dares to take a realistic look at the future he led the fight for voluntary family planning assistance.

These were not always popular issues in JOE TYDINGS' home State. But he realized that his responsibility to his constituents was to lead, not just follow—to educate, not just react—to challenge the status quo, not just take the path of least resistance.

I had the privilege of working closely with JOE TYDINGS on many key issues in the Judiciary Committee. He did his homework; he came prepared; he fought hard; he substantially improved much of the legislation which came through that committee. He worked just as conscientiously in his other Senate duties as well.

All of us who serve in this body know full well how much effective work JOE has done in the Senate and in the committees of this great body. Time and time again that is where the true legislation is molded and developed. Time and time again JOE TYDINGS improved many of these pieces of legislation that came out of the Judiciary Committee hearings, pieces of legislation that were so basic and fundamental to the rights and liberties of so many of our citizens. JOE TYDINGS has left his imprint on much of this legislation.

In short, JOE TYDINGS has carried forward that same commitment to excellence and to public service which was set by his illustrious family—a grandfather who was Ambassador to the Soviet Union, a stepfather who was also U.S. Senator from Maryland, other civic-minded relatives in Harford County and Maryland generally.

Mr. President, I respect JOE TYDINGS as an effective Senator, and as a personal friend. And I admire JOE TYDINGS for characteristically showing his best qualities in these difficult times for him personally. He has continued to work right up through the final days of his "lame duck" session. He has shown grace, not bitterness, in defeat. He is already preparing to continue his work and his contributions in his chosen profession, the law.

And so, Mr. President, JOE TYDINGS leaves us at least temporarily. He can hold his head high, with pride in his accomplishments in the Senate. He kept faith with his convictions and followed the course which he knew was right and true. He is indeed a tough man—vigorous, active, and dedicated—mentally and physically.

JOE TYDINGS has served his State. He has served the Senate. He has served his Nation.

We will all miss him. I will miss him. But I know that JOE TYDINGS, in one capacity or another, will continue on his brilliant career of service to his State of Maryland and to his country.

Mr. SPONG. Mr. President, I am pleased this morning to express briefly how much I value the association I have had with Senator JOSEPH TYDINGS of Maryland.

In the past 4 years, I have served on three committees with Senator TYDINGS—Commerce, Public Works, and the District of Columbia. In all of these assignments Senator TYDINGS has performed diligently and well. He zealously advanced the interests of his constituency but never lost sight of a concurrent responsibility to the Nation as a whole.

As chairman of the District of Columbia Committee, Senator TYDINGS devoted countless hours to the multiplicity of problems that presently beset the District. With his leaving, the people of the District of Columbia will lose a good neighbor and a firm friend.

In the years we have served together there have been numerous occasions when JOE TYDINGS and I have worked on matters of common interest to the neighboring States of Virginia and Maryland. For his complete and energetic cooperation, I am most appreciative.

There have been major issues before this body on which Senator TYDINGS and I have agreed and others on which we have differed, but I have been much impressed with his courage and tenacity in presenting his views to the Members of this body.

I would be remiss if I closed without also acknowledging my respect for Virginia Tydings, a rare beauty whose grace and talent are equally apparent in her own home or on the tennis court.

JOE TYDINGS has been a vital part of the action of our time. He has not shirked from personal convictions or his responsibility as he saw it. It has been a privilege to serve with him as it is to join with others who pay tribute to his service here this morning.

The PRESIDING OFFICER (Mr. BAYH). The Senator from Montana—Minnesota.

Mr. MONDALE. Mr. President, we have already had three Senators from Montana this morning. [Laughter.]

Mr. President, I join with my colleagues in expressing my deep regret that JOE TYDINGS will not be with us in the next Congress. JOE and I are members of a very exclusive club. We were part of the new class of 1965 who sat in the now missing fifth row which made up the Democratic side of the aisle. The row included JOE TYDINGS, the late Robert Kennedy, FRED HARRIS, and me. We often remarked that we were closer to the men's room than we were to the Presiding Chair.

It was back in that distinguished but now lost row that we came to know each other and to become good friends. Since that time I doubt that Senator TYDINGS and I have voted differently on more than 1 percent of the issues that have come before the Senate.

It is a mark of his ability that he usually sponsored my measures, and it was a mark of my ability that I usually sponsored his.

I am proud that I supported him in the measures which he asked me to join with him and support.

I think JOE knew that many of the undertakings which he led here in the Senate posed great dangers to his own political future in Maryland. At a time when mentioning population control threatened one's own political future, JOE early in his Senate career proposed a family planning research and assistance program. The results of his efforts were exemplified here the other day when the President signed the most far-reaching national commitment and national program in the country's history to deal with the profound and compelling issue of population control.

Perhaps as much or more than any other chairman of the Committee on the District of Columbia he applied himself totally to an effort to deal with the problems of this tragic city. Outsiders, I think, fail to realize what those of us who live in the District come quickly to learn and that is that with all the majesty of official Washington this is one of the saddest and most desperately ill communities in the country.

Senator TYDINGS knew that efforts to assist in the District as fully as he did would raise the question in the minds of his own Maryland voters as to whether he had been drawn off from a concern for them and had replaced it with concern for citizens of the District of Columbia. The fact is that these concerns are closely identified and virtually inseparable, but that very dedication so desperately needed by the District was used against him in his campaign.

In addition, Senator TYDINGS continued to be one of the chief spokesmen in this body for human rights. Every single human rights measure that was adopted by the Senate during his membership here was cosponsored by him. The Civil Rights Act, the Voting Rights Act, the Fair Housing Act, and other civil rights acts all bore his cosponsorship and many of them were the result of his leadership.

I well recall early in his career when he assumed the floor leadership for those of us who believed that the Supreme Court's principle of one-man, one-vote, should be sustained. I raise that issue at this point because I think in a real sense it is probably the most fundamental civil rights principle, with which the Senate had to deal. We battled as a minority, and under Senator TYDINGS' leadership, we were able to sustain the one-man, one-vote Supreme Court decree. I think that, as much as anything else, has and will continue to contribute to human rights in our country.

I shall include in my remarks a record of Senator TYDINGS' service in the Senate, which was prepared some weeks back. It is a record of great distinction and I am proud to have served with him during the years in which it was compiled.

Mr. President, I ask unanimous consent to have the statement printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MONDALE. Mr. President, I wish to say on behalf of myself and my wife

Joan that we will always cherish the friendship of JOE, Ginny, and their wonderful children. We thrill at his public career and look forward to continuing that friendship. We hope before long he will renew his interest in public service.

EXHIBIT 1

THE TYDINGS RECORD

A man doing what is right. A man of courage, independence, integrity and vision. A tough yet fair man. This is Senator Joseph Davies Tydings.

Accomplishment is his trademark. Accomplishment for Maryland and the Nation.

When certain interests tried to despoil Assateague, he initiated efforts to preserve the Island's natural beauty forever. When they wanted to string ugly power lines across historic Antietam Battlefield, he stopped them.

Baltimore kids have more fun because Joe Tydings secured the money for Operation Champ. Because he amended the Safe Streets Act, Maryland policemen can get loans and scholarships for high education.

He watches out for the Port of Baltimore, and he protects the Chesapeake Bay. There are a hundred reasons why Maryland is a better place to live in because Joe Tydings is in Washington.

A former State legislator and U.S. Attorney for Maryland, he has been a United States Senator for only five years. Some people get less done in a lifetime. Some never get in a good fight. Joe Tydings took on a tough one just weeks after he arrived in the Senate—and won.

It was a four-year, knock-em-down, drag-em-out battle over the principle of one-man, one-vote. Joe Tydings believed in the principle. So did two of his senior colleagues. Together they defeated the massive threats to fair apportionment of state legislatures.

Few 42-year-old Senators belong to the Senate leadership. Joe Tydings does. He is the youngest member of either House of Congress to be chairman of a standing committee. His legislative track record inspires confidence.

Tydings is perhaps best known for his efforts to curb crime. He has advocated effective gun-control legislation to disarm criminals without inconveniencing law-abiding gun owners. He inspired the crackdown on narcotics traffic in the Nation's Capital—traffic that seeps into every corner of Maryland.

The federal judicial system works better because of bills Tydings wrote and pushed into law. The first major reform of the federal jury system. A Federal Judicial Center that provides the courts with a research arm. An overhauled U.S. Commissioner system. More federal judges. He got them.

You name the need and Joe Tydings is working to solve the problems: tax reform, inflation, equal opportunities, conservation, urban mass transit, aid to cities, consumer protection. And then there's the one he believes has the most long-range significance: The Population Crisis.

If we don't solve that one, Tydings feels, we can forget about the others. And so he advocates federal assistance to freedom-of-conscience family planning programs.

It is a sensitive issue. And a tough stand for a man in political life. But then Joe Tydings has never ducked the tough ones.

Let's look at what he has accomplished, at what he's trying to do and where he feels we should be going:

SENATE LEADERSHIP

As chairman of one of the Senate's legislative committees, Senator Tydings participates in the Senate leadership. At 42, he is the youngest member of either House of Congress to be a standing committee chairman. A Senator's influence with his colleagues and his ability to get things done are greatly enhanced by this kind of leadership position.

COMMITTEE ASSIGNMENTS

Seniority and prestige in the Senate have earned Senator Tydings positions on three committees of vital importance to Maryland and the Nation. As a member of the Judiciary Committee, he participates in the drafting of all national crime legislation. On the Commerce Committee, the Senator works on protection of consumers in such legislation as the Truth-in-Packaging and Auto Safety Acts. As a member of its Merchant Marine Subcommittee, he is able to protect and enhance Maryland's interest in a strong Port of Baltimore and a thriving participation in world trade. As Chairman of the Committee on the District of Columbia, he is influential in working for the interests of the million Marylanders who live in the Maryland counties next to the District of Columbia. As Chairman, he has the decisive voice in effectively opposing unreasonable and unwise measures such as the commuter tax proposed to be levied on the tens of thousands of Marylanders who work in the District daily.

CIVIL RIGHTS

Tydings was a floor leader for the Voting Rights Act in 1965 and 1970, which give franchise to nearly one million black Americans. He held hearings on, drafted and guided to unanimous passage in the Senate the bill ending discrimination in federal juries. He has supported open housing, the Civil Rights Commission, and ending the poll tax, and opposed the Carswell appointment to the Supreme Court. In 1970 he was the recipient of the National Brotherhood Citation from the National Conference of Christians and Jews, D. C. Chapter, for Distinguished Contributions to Improved Human Relations, Justice and Equality. Previous recipients include, Presidents Truman, Einsenhower, Kennedy and Johnson.

URBAN AND CONSUMER PROBLEMS

As Chairman of the only Senate committee exclusively charged with urban problems (the District of Columbia Committee), Tydings has introduced, conducted hearings on, and secured enactment of model laws on crime control, court reform, public defender agencies, air pollution control and public health treatment of alcoholism. Similarly, he secured Senate approval of his model legislation on urban parking, consumer protection and freeway airspace construction. His searching inquiries into drug abuse prevention and control and the crime problem in the Washington metropolitan area have gained national attention as spearheads in the effort to meet the crime and drug abuse crises in our cities. As Chairman of the District Committee, he also has been instrumental in securing enactment of the legislation under which the Washington Metropolitan Area rapid rail transit system will be built. Through the Committee, the Senator has attempted to address the urban problems confronting all American cities.

REVIVING INTER-CITY TRANSIT

Tydings drafted legislation to provide for the rehabilitation of old and the purchase of new railroad passenger equipment. It is now part of Senate Commerce Committee legislation that is before the Senate. He gave crucial support for funding of the pioneering Metroliner. As a Commerce Committee member, he has helped draft the $10 billion, 10-year Airport/Airways bill to make flying safe and punctual.

AUTHORITY ON THE JUDICIAL SYSTEM

As chairman of the Senate Subcommittee on Improvements in Judicial Machinery, the Senator has authored and guided to enactment numerous landmark measures to improve the third branch of government, including the first major reform of the federal jury system in the history of the country; creation of the Federal Judicial Center to provide the courts with a research arm; overhaul of the U.S. Commissioner system (Federal Magistrates Act); increasing the number of federal judges, and providing modern management methods in the courts (1969 Omnibus Judgeship Bill). He is the leading Congressional advocate of legislation to remove unfit judges from the bench. The President of the American Bar Association said in 1970 that Tydings "has done more respecting the machinery of justice in the federal courts than anyone in his lifetime."

STRONG STATE GOVERNMENT

Tydings led the four-year fight in the Senate, with Senators Paul H. Douglas and William Proxmire, successfully defeating the "Rotten Borough Amendment" to repeal the one-man, one-vote apportionment of state legislatures. As a former state legislator, he has appeared before numerous conferences of state legislators urging modernization of state government to stop the flow of power to Washington and to provide more responsive local government. He was the first Democratic Senator to author legislation to share federal revenues with states.

CRIME CONTROL

Called by the New York Times "the Senate's foremost student of the crime problem," Tydings is the only U.S. Senator ever to receive the top law enforcement award of the American Criminology Society, the August Vollmer Award. Tydings led efforts to enact and improve the Safe Streets Act, the law that provides financial aid and guidance to state and local anti-crime efforts. Approximately $4 million in federal anti-crime money will be coming to Maryland in 1970. Tydings also wrote the part of this law that provides federal funds to better educate and train law enforcement personnel. As a result, Maryland policemen and prison authorities will receive $633,819 this year for educational purposes. He devised and executed the legislative strategy that led to enactment of the concealed weapons crime control provisions of the 1968 Omnibus Crime Bill, and has advocated effective anti-crime gun legislation since election to the Senate. Tydings has written and is currently seeking Congressional action on 48 separate pieces of legislation designed to obtain better pay, training and respect for our police; to improve our criminal courts, and end the delay that cripples them; to improve and update our correctional system; to combat gun crime; to help victims of crime; to combat organized crime, and to control drug abuse and pornography.

TAX REFORM

Tydings is a leading advocate in the Senate of comprehensive tax reform. He refused to support the extension of the 10 per cent federal surtax until it was coupled with the Tax Reform Act of 1969. He was a member of the group that led the successful fight to raise the personal exemption from $600 to $750 per dependent. He offered an amendment to close the largest single loophole in the tax system which costs the taxpayers $3 billion a year; the measure was narrowly defeated. Other of his legislation before the Congress seeks to provide property tax relief for elderly homeowners and renters.

DRUG ABUSE

Tydings wrote the Senate-passed amendments to the nationwide Controlled Dangerous Substances Act of 1969, which strike hard at professional narcotics merchants. The amendments increase the maximum penalty for the importers and major sellers of narcotics from twenty years (the Administration's penalty) to life imprisonment. They also serve to confiscate from the convicted drug merchants all of their ill-gotten profits and assets, so as to completely knock them out of their illicit business. Tydings has also written comprehensive and highly acclaimed drug legislation that should serve as a model for every state in the Nation. His legislation combines effective law enforce-

ment with a thorough and up-to-date treatment and rehabilitation program. Like his amendments to the national drug bill, this legislation calls for the imposition of very hard punishment for professional narcotics merchants. Tydings has held law enforcement conferences with federal, state and local officials to make Maryland the most hostile area in the Nation to narcotics, while outlining and demanding creation of a model urban drug abuse control agency in the National Capital.

EDUCATION AND CHILDREN

Tydings helped lead the successful fight to enact the Higher Education Act Amendments of 1968 to extend federal financial assistance for college students. He helped to pass the Elementary and Secondary Education Act of 1965, the principal federal legislation to improve the educational quality and opportunities in the Nation's elementary and secondary schools. In response to complaints by school boards and educators across the country that they lacked sufficient time to plan for the efficient use of federal school aid, he successfully amended the Elementary and Secondary Education Act to permit schools to keep funds an extra year before being required to return the unused portion to the Treasury. He also led the successful effort in 1969 to appropriate the $1 million the State of Maryland needed to sustain the operation of its school lunch program through the full 1969–70 school year.

AID TO CITIES

Tydings actively participated in coalitions of senators seeking enactment of urban-aid legislation such as Model Cities grants, the Teachers Corps and the anti-poverty programs. He introduced legislation providing for tenant purchase of public housing units, funds for social services to public housing tenants and modernizing of existing public housing units. These proposals were adopted in the Administration's Omnibus Housing Bill and were later enacted. He also introducted legislation to ease conditions on federal grants for municipal acquisition of land in advance of actual need, which also was enacted as part of the subsequently introduced Omnibus Housing Bill, and he offered in this Congress an amended version of the Administration's federal revenue sharing plan to ensure that cities receive a fair share of the revenues granted the states.

ENVIRONMENTAL QUALITY

A recognized leader in conservation, Tydings is devoted to protecting the Chesapeake Bay and other Maryland waters. In 1966 he secured enactment of the National Estuarine Pollution study. This led to his introduction of the Coastal Zone Management Act of 1970 to assist the states in establishing coastal resource planning and development programs. Hearings on this bill are now being held. In 1968, Congress passed the Tydings Coastal Erosion Review Act. In 1969, it passed legislation incorporating the basic concepts of his bill to create an Office of Environmental Quality, providing coordination for federal conservation programs and policies. Tydings has introduced wide-ranging legislation on control of pesticides and has pressed for strong federal legislation on thermal pollution. He worked actively for the Assateague National Seashore. In 1970 he secured passage of his amendment permitting states to be repaid had they advanced the federal share of grants for pollution control. Maryland can receive some $7 million in such federal reimbursements. Tydings was a member from 1966–68 of the Muskie Subcommittee on Air and Water Pollution which drafted the Clear Water Restoration Act of 1966 and the Air Quality Act of 1967.

MARITIME MATTERS

As a member of the Senate subcommittees on the Merchant Marine and Oceanography, Tydings is in a key position to shape legislation on maritime matters that are important to Maryland. He is helping to draft new legislation to revitalize our merchant fleet and has actively opposed a bill to forget the $148 million debt of the St. Lawrence Seaway to the Federal government. In March 1970, Tydings forced the Treasury Department to suspend an unprecedented waiver to a foreign-flag tanker that disastrously would have cut back American shipbiulding, particularly at Sparrows Point, and put thousands of Maryland workers in steel, shipbuilding and related industries out of work.

WASTE IN GOVERNMENT

Tydings participated in leading the successful efforts to cut unneeded expenditures out of the federal budget. Last year he offered an amendment to the military authorization bill to cut $25 million from a research slush fund; the amendment passed the Senate by a vote of 93–0. He has called for a $10.8 billion cut in the military budget—a cut that would not weaken our defenses or compromise our national security. And he has introduced legislation to require the Comptroller General to make quarterly reports to Congress on all government contracts involving substantial cost overruns or late deliveries. The bill is designed to give Congress more control over executive branch spending and hopefully to further reduce waste.

POPULATION CRISIS

The Senator is the leading Congressional advocate of federal assistance to voluntary family planning programs, both domestically and as part of the foreign aid program. He authored provisions enacted in the Foreign Aid Bill and the Social Security Amendments of 1967 to provide family planning assistance on a voluntary basis, especially to women who cannot afford such services through private sources. He introduced in this Congress legislation with more than 90 cosponsors to expand and improve domestic family planning services and to increase research for the development of safe, effective contraceptives.

CONSUMER PROTECTION

The Senator introduced a bill to allow groups of consumers to sue together in federal courts, making recovery from fraud and deception practical. His unprecedented proposals for an Office of Consumer Affairs in the White House will provide for a consumer advocate in the upper levels of government who can investigate, argue, and sue for the buyer. As a solid consumer supporter, he has fought for landmark laws such as Truth-in-Lending, Truth-in-Packaging, and many others.

Mr. MOSS. Mr. President, it is with a deep sense of loss and regret that I watch JOE TYDINGS leave the Senate at the end of this week.

It would seem that all of his life he has been preparing for his role here, conditioned first by the example and influence of his distinguished father, Senator Millard Tydings, and later by his own work in the Maryland State Legislature and as U.S. attorney for Maryland.

He came to the Senate full of promise—and he has fulfilled much of that promise—in just 6 short years. He could have done much more in the years ahead.

It is hard to know which of his many accomplishments to stress but I believe that the field of law enforcement is the one in which he has made perhaps his greatest contribution. His courage and his fidelity to his convictions have been an inspiration to all of us.

JOE and I fought often on the same side, and I will miss him—particularly in the field of consumer protection where he introduced one of the most far-reaching reforms before us—the class action bill which would make recovery from fraud and deception practical. We will be pushing this reform next session, JOE, I assure you.

I do not know what is ahead for our brilliant young colleague, but I am confident that whatever he chooses to do it will be in the field of public service, and I know that in the future as in the past he will not be dodging the tough issues.

Mr. President, I think JOE TYDINGS, in his relatively short service in the Senate, has made a mark which will be noted in this body and in all history of this body because in that period of time, with the great abilities he has and his total devotion to his ideals he has caused this body to move in the direction of concern for people, concern for the rights of the people, and in fashioning a better society.

It is with regret that I see JOE TYDINGS withdrawing now from the Senate. It would not surprise me to see him back and if that be the course he chooses to pursue in the future, it would be beneficial for the people of his State and the Nation. I salute JOE TYDINGS as one of the great Senators of this body who carried on a great tradition in his service here.

Mr. BAYH addressed the Chair.

The PRESIDING OFFICER (Mr. MONDALE). The Senator from Montana is recognized.

Mr. BAYH. Mr. President, it is rather unique to note we now have five Senators from Montana. [Laughter.]

Mr. President, it was a rather sad privilege this morning to be able to preside earlier during the initial remarks that were made relative to our colleague and friend, JOE TYDINGS. As I sat there sharing the privilege that the distinguished Senator from Minnesota now shares, listening to the remarks that were made, I wondered whether the Senator from Indiana could add any new thoughts to those that were being and have been previously expressed. I thought perhaps the better part of wisdom would be to have printed in the RECORD the remarks which I had previously prepared last evening, as is often the custom in the Senate. However, I decided I did not want to follow that course of action; that I wanted to join with my friends and colleagues and the admirers of JOE TYDINGS to pay tribute to him as a legislator whose record of accomplishment marks him clearly, in my judgment, not only as a man of all seasons, but perhaps more importantly, a man of all people.

I wanted to do this personally and not perfunctorily because I felt that the relationship that the Senator from Indiana has had with the Senator from Maryland has been more than a perfunctory relationship, a business relationship, a relationship of one colleague with another; but, in addition thereto, the relationship of one friend to another—a devotee of certain basic principles, and the relationship of another devotee to similar principles.

The Senator from Minnesota earlier referred to his personal relationship with the Senator from Maryland and his charming wife. It should be noted that the Tydings family is one steeped in the tradition of service to its country and to its fellow man. His wife Ginny, his charming mother, and his entire family have shared this burden, this responsibility, and this opportunity.

It is in this capacity, as well as the capacity of a colleague, that I join in paying tribute to Senator TYDINGS.

Certainly, all the people of his home State of Maryland have been indeed fortunate—I think it is fair to say so have all the people of our country—in being so well represented in the U.S. Senate by a man like JOE TYDINGS.

Each of us has the good fortune of representing his individual State, but each U.S. Senator is, in addition to being a voice for one of the 50 independent States, also has the sober responsibility of being a U.S. Senator, and no Member of this body, in the 8 years I have had the good fortune to serve, has been aware to a greater degree of this dual responsibility than JOE TYDINGS.

I count myself fortunate in having known JOE TYDINGS closely over the past 6 years. My association has been strengthened by our work together on the Judiciary Committee. His knowledge of law, his experience as a U.S. attorney, his very deep respect for the constitutional processes, and his deep compassion for individuals, all combined to make him one of the most effective and creative members of the committee.

The Senator from Massachusetts pointed out so well the importance of the behind-the-scenes, unglamorous activity that goes on in the Judiciary Committee's work; and JOE TYDINGS has always been there.

As chairman of the Subcommittee on Constitutional Amendments of the Judiciary Committee, I have had the opportunity to witness the beneficial effect of JOE TYDINGS' knowledge and concern on many important legislative matters, notably his insistence that the Supreme Court of the United States remain independent and peopled by men of the highest caliber.

I was alarmed not too long ago, that a poll taken by one of the major television networks indicated that more than 50 percent—some 56 percent—of those who were polled indicated that they would support a move to repeal the Bill of Rights.

Mr. President, let me say that voices like JOE TYDINGS, and too few others in this body, have been a clear and clarion call to alert the people of this country to what this attitude might eventually mean, what road this might lead us down.

I sat throughout rather dull and tedious hearings of the Subcommittee on Constitutional Amendments in which seemingly simple propositions were being made, popular propositions were being made, well-intentioned suggestions were being made, but suggestions which would lead us down the path of totalitarianism. And I wonder where we would be today if it had not been for JOE TYDINGS' insistence that we would not take the easy way; that we would stand firm in our belief that individual rights in this country are those rights that distinguish us from some other societies that exist on the face of the earth today.

Certainly under his chairmanship the Senate Subcommittee on Improvements in Judicial Machinery made basic contributions toward much needed improvements of our third branch of Government, notably the first major reform of the Federal jury system in our history; creation of the Federal Judicial Center to provide the courts with a research arm; and overhaul of the U.S. commissioner system, through the Federal Magistrates Act. In addition, he did much to make our judicial system responsive to the needs of our time by increasing the number of Federal judges, and by providing modern management methods by which judicial personnel can serve more efficiently and economically.

We are aware of all of the public speeches that have been made in the last several months or the last few years on the critical problem of law and order. I wish some of those who treat the problem of law and order lightly or simply would lend equal effort and their eloquence to do something constructive, in a meaningful way, to bring the forces of our Government to bear on the criminal elements of our country as JOE TYDINGS has done in his patient, diligent, often unpublicized efforts to try to straighten out the judicial branch of this Government.

The imprint of JOE TYDINGS' concern for effective and responsive government is seen in much of the landmark legislation, touching matters of vital concern, that has been enacted since 1965, which was earlier referred to by one of our colleagues on the floor.

For example, one of the most difficult and dangerous problems facing the world today is that of the so-called population bomb. Those who watch demographic trends here, and particularly in the underdeveloped countries of the world, share a feeling of deep concern as soaring populations press against limited resources. Senator TYDINGS, feeling that inaction in this area was little more than a prescription for chaos, became the leading congressional advocate of Federal assistance to voluntary family planning programs, both here at home and abroad in those nations involved in our foreign aid program. Most recently the President has signed into law the legislation introduced by Senator TYDINGS to expand and improve domestic family planning services.

But in the headlines and in the articles I saw little mention if any, made, of the contributions, with little publicity, made behind the scenes persuasively by the Senator from Maryland.

One of the most significant and historic results of his concern for all the people was his signal contribution, as floor leader, in the enactment of the Voting Rights Act in 1965 and 1967.

This measure, which went through the Judiciary Committee, was handled by JOE TYDINGS, seated in the chair of the leadership, which ultimately passed and became bedrock law of this country. This legislation extended the franchise to over 1 million black Americans who prior to its enactment could not even get into the county courthouse, but now are on the voting registers—proof that the system can work with men like JOE TYDINGS leading us. If we are going to go forward and be able to wipe out the discrimination which plagues this country, it is this type of leadership which this country will need.

His contributions toward full equality of opportunity and participation were recognized by the District of Columbia chapter of the National Conference of Christians and Jews when that organization extended to him its esteemed National Brotherhood Citation for Distinguished Contributions to Improved Human Relations, Justice, and Equality.

I may also mention that all of us are consumers, and one thing we should not overlook is that the consumers of this country are better off today because of the leadership that JOE TYDINGS has offered this particular area.

He introduced legislation designed to allow groups of consumers to sue together in Federal courts, thus making recovery from fraud and deception practical. He urged that an Office of Consumer Affairs be established in the White House in order to provide at the highest level of Government a consumer advocate who could investigate, represent and, if necessary, sue for the buyer.

JOE TYDINGS has recognized that there is this large group, the average citizen, which has no lobby group to represent it. He is one who has been willing to represent this large mass of Americans.

Just in passing, let me suggest that parents everywhere, deeply distressed by the growing threat of drugs and narcotic substances, owe JOE TYDINGS a debt for his amendments to the nationwide Controlled Dangerous Substances Act of 1969, which are directed at those who operate as professional merchants of narcotics. Those of us in the Senate acknowledge the important role JOE TYDINGS has played in writing comprehensive drug legislation that merits attention by every State in the Union.

In closing, Mr. President, let me say that we honor JOE TYDINGS for these and other important contributions. But perhaps above all, I will always remember him for his courage and his clarity of vision. His voice has been strong where others quavered or were silent. He has not shirked his responsibility because the issue in question was controversial. I have just a bit of personal knowledge about the type of controversy that JOE TYDINGS has accepted as part of his responsibility as a Senator, accepting it with complete knowledge that from a political standpoint it could not—in the sort run, let me emphasize—be to any advantage whatsoever, but perhaps would be detrimental to his political future. His vision has been keen where others were unclear or clouded. Always he has been motivated, not by the timid question, "Is it expedient?" but rather by the bold, challenging and, I like to believe, American question, "Is it right?"

As a friend and colleague in many legislative battles, I will miss the presence of JOE TYDINGS in this body. But I know full well that he will not be content to let injustice remain. Although he will not be in this body, he will continue to be a spokesman for the right, and to use his significant influence in whatever capacity he has the opportunity to use it.

Mr. PERCY. Mr. President, I think it could be very accurately stated that friendships in the U.S. Senate are a many-splendored thing. Certainly friendships in the U.S. Senate are a bipartisan affair, and for this reason I am very pleased, from this side of the aisle, to extend to our colleague JOE TYDINGS, the distinguished Senator from Maryland, a permanent hand of friendship. He has had—and will continue to have—many, many friends in this body.

Of all of the friendships that my wife and I have been honored and pleased to have in Washington, we have valued none above that of the distinguished Senator from Maryland and his lovely wife. They are a marvelous pair. I think that public life is a partnership that one has with his family, particularly his wife, and Mrs. Tydings has distinguished herself by her own devotion to her husband's duties and responsibilities. She has contributed immeasurably, I believe, to the rapport that he has established with his colleagues and his constituents, and the deep affection that we all have for both of them.

Friendship is one thing, but respect is another, and I have developed, over the period of my own 4 years in this body, the deepest respect for the courage, the conviction, and the dedication of the distinguished Senator from Maryland.

The issues that he has been involved in have been controversial issues; that is why they have been meaningful issues. He has never waited until an issue has become popular before taking it up. He has been in the forefront of many movements, which I feel in time will prove his wisdom. But by getting deeply involved in these movements, he has brought upon himself the full force of powerful interests that stand in opposition to change and support the status quo.

In his work in the area of gun control—a field in which we absolutely must find better answers than we now have—he distinguished himself by his knowledge, his courage, and his convictions. And no matter how heavily the vested interests fought against him, he stuck to his guns, so to speak, even though he realized that it was politically harmful to do so.

In the area of family planning, another area in which I have been interested for many years, I have looked to the Senator from Maryland for guidance. He is one of the most knowledgeable and experienced leaders in this field, years ahead of his time and certainly in the sweep of the future. The population problems that we face in this country must be met with practical, realistic approaches and answers, such as those JOE TYDINGS has provided by his legislation.

I have fully supported the efforts the distinguished Senator from Maryland has made toward finding ways to improve crime control in this country. I think many of the measures he has sponsored have been responsible for contributing to the lessening of crime in our Nation's Capital.

I have looked to Senator TYDINGS for advice and support in many other areas as well. When he stood up, with considerable courage, against two Supreme Court nominations, his sound research and obvious hard work were of great benefit to me as I tried to resolve very difficult legal and moral questions. Ultimately, I came to agree with his conclusions and to fully support his position.

JOE TYDINGS brought to this body a long and distinguished record of previous public service. He was a member of the House of Delegates in Maryland for a period of 6 years, and then served 2 additional years as U.S. attorney for Maryland.

We shall miss JOE TYDINGS very much indeed—as a Senator, as a friend, and as a force that stands out as a beacon of hope for the future. He has an understanding of the future, and I am sure that all of the knowledge, skill, and ability that he has gained in his nearly 15 years of public life will continue to benefit his country, his State, and the friends that he will always have in this body.

Mr. BIBLE. Mr. President, I take this occasion to salute my seat mate today. He is one of the distinguished Members of this body. I have worked very closely with him, particularly on the District of Columbia Committee. It is to that phase of his achievements and work that I wish to pay particular attention today. During the time that I have been on that committee, he was of inestimable help to me in helping shape a number of important measures destined to become law. Chief among these was the omnibus crime control bill of 1967.

As you all know, Senator TYDINGS succeeded me as chairman of the District Committee at the beginning of the 91st Congress. I believe it can be said, with total objectivity, that he has done an extraordinary and energetic job in that capacity. He was, of course, the prime moving force behind the landmark District of Columbia Court Reform and Criminal Procedures Act of 1970. It was a major, long overdue measure to beef up the court system and speed up the administration of criminal justice in the Nation's Capital.

I am among those who admired Senator TYDINGS' courage—and I underline the word "courage"—in pushing for this legislation in the face of severe criticism over some provisions relating to preventive detention and search warrants. I believe that the law-abiding citizens of the District of Columbia and, yes, of this entire metropolitan area owe him an immense debt of gratitude for his steadfast position on these controversial issues. I am certain that many of those issues reflected adversely to him in the last political campaign.

In addition, Senator TYDINGS is entitled to point with pride to the strong leadership he provided in many other important areas. He did much to bring about the implementation in the District of Columbia of the recommendations developed by the President's Commission on Crime. He was a leader in obtaining reform and improvement of laws governing the handling of juveniles before the courts. He worked tirelessly for bail agency reform, consumer protection, home rule, control of drugs and narcotics, and the development of the subway rail rapid transit system so badly needed in the National Capital Region. He was a prime mover of comprehensive legislation for the prevention and treatment of alcoholism. I know of his great work in constantly supporting increased revenues to meet the evergrowing needs of the Nation's Capital. I am certain that he has a great future, and I am confident that we will hear much from him in the field of public service in the years ahead.

His wife, Ginny, his wonderful family, and his mother have my best wishes on this day, as we pay him tribute.

Mr. ALLEN. Mr. President, I am honored to have the opportunity to join in the tributes that are being paid at this time to the distinguished senior Senator from Maryland, my good friend and our good friend, JOE TYDINGS.

The first time I became forcefully aware of the fact that there was a Tydings in the U.S. Senate was back in 1938, when I was quite a young man, in the State of Alabama.

The then Senator TYDINGS was being opposed in his bid for reelection by the then President of the United States; and the chief criticism that was made of Senator TYDINGS, apparently, was that he stood up for his convictions, he stood for the principles in which he believed, and he refused to be a rubberstamp. Observing that race from almost a thousand miles away, I was pulling very strongly for Senator TYDINGS, and he was successful in the election. Senator Millard Tydings would have every reason to be proud of his distinguished son and the record he has made in the U.S. Senate.

It is a sad commentary on the foibles of American politics that a Senator can sometimes injure his political position by being a leader, by taking a stand on a controversial measure, by standing up for his convictions and his principles. I believe that is what has happened in the case of JOE TYDINGS. He could have dodged the tough ones. He could have straddled the fence. He did not do that. He took a definite stand, many times an unpopular stand, and that is to his credit, because he was standing up for his convictions, standing up for his principles.

Mr. President, if a supplement or another edition of the book "Profiles in Courage," written by President—then Senator—Kennedy is ever published, I believe that JOE TYDINGS would be entitled to occupy a place in that book, because he has manifested and demonstrated courage. He has stood up for his principles when it was not always the popular thing to do.

I daresay that I have disagreed with JOE on critical issues in the Senate more often than I have agreed with him; but that does not prevent me from admiring courage, admiring ability, admiring dedication—and I see these qualities in JOE TYDINGS.

I have had the pleasure of being his next door neighbor on the sixth floor of the New Senate Office Building for the

last 2 years, and I have observed the long hours he has worked, the fine staff he has, and their dedication to him. He has been friendly, most hospitable, most helpful in every way to the junior Senator from Alabama, and for this I am deeply grateful. Before I took office as a U.S. Senator in January of last year, JOE TYDINGS was most helpful to me in helping my daughter, just out of high school, enroll at the University of Maryland, where she has enjoyed her studies very much.

So on election night, when it was determined that JOE TYDINGS was not going to return to the Senate, there was sadness among the ladies in the Allen family, because they too are great admirers of the distinguished Senator from Maryland.

I am delighted to have this opportunity to pay tribute to JOE, to wish him and his fine family happiness and opportunities for service in the future, and to hope that we will see and hear much of JOE TYDINGS in the days and years to come.

Mr. YARBOROUGH. Mr. President, it is a privilege to participate today in paying tribute to a dynamic young man, Senator JOSEPH TYDINGS, who has served the people of Maryland and the Nation well during the last 6 years. It is unfortunate that the Senate will not have the benefit of Senator TYDINGS' ability in the coming session. However, as we know, Senator TYDINGS was defeated in one of the most scurrilous campaigns of this election year. The larger loser in this campaign was not Senator TYDINGS but rather the people of Maryland.

It is remarkable that his campaign succeeded a similar one against his father. We must remember the span of time, when people forget. I remember my own experience. Fourteen or 15 years is almost a generation. People forget what happened earlier.

During his service in the Senate, Senator TYDINGS has left an indelible mark on many progressive measures including the critical area of population control. Senator TYDINGS had the leadership to introduce the landmark family planning bill, which I had the privilege of cosponsoring with him, whose principal advocate in the past had been former Senator Ernest Gruening of Alaska, until Senator Gruening's defeat in 1968. As a cosponsor of this important measure and as chairman of the Senate Labor and Public Welfare Committee, I set up special hearings on the bill and worked to aid Senator TYDINGS obtain committee and Senate approval of it.

President Nixon signed this bill on December 26, and praised it lavishly as a breakthrough legislation—kind of taking credit for it himself—but the real praise belongs to the junior Senator from Maryland who worked diligently month after month to push this bill to final passage. I know because I am chairman of the Health Subcommittee and he was pushing us hard. It took drive on his part. I could talk for a good while about that. It is another landmark law written by the second session of the 91st Congress. With the ever-increasing population, it is imperative that our Government take action to provide family planning services to the American people. Senator TYDINGS' bill is the first major step toward solving the population problem and he is to be commended for having the leadership to push it to final passage in the Senate, conference with the House, and signature by the President. This is a great achievement. Across the aisle it was called a kind of disaster. But the President is signing it today at 12 o'clock, the occupational health and safety bill which will protect 80 million American workers.

Senator TYDINGS also has distinguished himself as chairman of the Senate District of Columbia Committee. In this capacity, he has worked diligently for programs to improve the quality of life for the people of the District of Columbia who lack representation in Congress. I am particularly grateful to him for holding public hearings on my bill to create a system of compensation for innocent victims of criminal acts within the District of Columbia, S. 2936.

For years I had sought hearings on this bill but energetic JOE TYDINGS was the first Senator on the committee with jurisdiction to hold these hearings. These hearings for the first time focused attention on the pressing need to compensate those unfortunate citizens who have been brutalized by criminal acts in our Nation's Capital. This bill, which has been a legislation priority of mine for many years, was included in the Senate version of the District of Columbia crime bill. Unfortunately, the House refused to follow the Senate's lead in this area and did not accept this program in the final version of this bill from conference. However, for his efforts in this critical area, I wish to say thank you, and I believe that his hearings will focus attention on this needed progress in this coming Congress.

It is my earnest hope that Senator TYDINGS has no intention of retiring from public life at this point in his career. It is my hope that he will continue to actively speak out on the issues which he so forcefully advocated in the Senate in the years to come, and that at some future date he will return to this body or some other very important Government service. He is too young to stop, too able to accept second rate positions, too dedicated for the people of Maryland and the Nation to lose the benefit of his knowledge, drive, and good character. I urge him to stay in public service and I wish for him every success in whatever endeavors he may undertake in the future.

Mr. HUGHES. Mr. President, a little over 3 years ago, before I considered the possibility of running for the U.S. Senate, I happened to be in the Capital of our Nation, and Senator JOE TYDINGS called me to ask if he might come up to my hotel room and visit with me on a Sunday morning. I certainly was anxious to have a meeting with him. I had not had the opportunity to meet Senator TYDINGS up to that time.

He brought with him the distinguished junior Senator from Minnesota (Mr. MONDALE). I shall never forget that Sunday morning, because their interest as members of the Senate Democratic campaign committee was to suggest that I be a candidate for the U.S. Senate from the State of Iowa.

Let me add that, at that time, I did not express any particular interest in what they said would be a wonderful opportunity to be of service not only to my State, but also to the country.

In the course of our conversation, I became deeply impressed with the Senator from Maryland—not only for his dedication, his wisdom, and his personal qualities, but also for his belief that something could be done in our time to alleviate the pain, the misery, and the agony of so many millions of Americans, as well as people throughout the world.

By any measure one cares to apply, Senator TYDINGS is one of the most remarkable men of our time. His career of public service, particularly his service in the Senate, reflects a character of great depth, a depth that is not usually seen—one of versatility, one of total and full commitment to the public interest.

I think that the greatest thing any individual can give his fellow man is a total commitment to trying to do something for him in our day.

It has been my observation that Senator TYDINGS is that rare person who, day after day, in this Chamber, in committees, and elsewhere, has done his duty as he has seen it, has given totally of his capabilities. Senator TYDINGS has helped to elevate the people of our country to better things, to give them greater hope.

He has taken the practical course in trying to alleviate pain and misery, as already expressed by the distinguished Senator from Indiana (Mr. BAYH). I do not care to seem repetitious this morning—it is all well known, though it will be repeated—but I wish to stress that we face in our country today many emotional trends, trends that have seemed to tear us apart. The people of America have found themselves in the midst not only an epidemic of crime, but also an epidemic of escape from reality through the vehicle of narcotics, drugs, and other substances foreign to the human body for purposes that are almost inexplicable.

The solution of this problem is the practical course which JOE TYDINGS has taken, within the governmental structure, not only to cut off the sources of supplies of narcotics and drugs, but also to see that the pushers of drugs are brought to speedy trials with every opportunity for fair and impartial justice.

At the same time, he has confronted the problem of savage assassinations which have plagued this country. He has made us realize the savagery of the almost limitless supply of firearms that have been so easily available to the people of this Nation.

I speak as one who all my life has used firearms as a sportsman.

JOE TYDINGS has had the courage to face this issue. His efforts to control firearms undoubtedly contributed greatly to his loss in the last election. I believe that the sportsmen of this country must wake up and begin to lead, to realize that while weapons can be utilized for sporting purposes, they can also be utilized for many other purposes and that controlling them properly is absolutely essential and in the public interest.

JOE TYDINGS' efforts along this line resulted in a massive, retaliatory campaign, mounted for the very purpose of removing this voice from the national scene.

I believe that ultimately everyone will arrive at the conclusions he has been

thrusting toward us, but when a man stands forth early in the waging of debate to control weapons of savagery, he is going to pay a price.

I believe that was part of the price that JOE TYDINGS was willing to pay, the risk he was willing to take, for this and the many other issues he so ably led and fought for in the Senate.

If there is one impression JOE TYDINGS made upon me it has been that of a gentleman, a man who—as expressed by the distinguished Senator from Alabama (Mr. ALLEN) just a few moments ago—one may disagree with occasionally and sometimes continuously on varying issues, but who always extended senatorial courtesy within this Chamber and the heartfelt empathy of one man for another that constantly emanated from this man's personality.

It has been a deep privilege for me to have had this brief exposure of 2 years, one of those having been spent in the midst of a most difficult campaign that took many days and many hours of tireless energy for him to continue to wage the battles he believed in.

Not only has his contribution been great in behalf of his native State, but it has also been great for America and will eventually help to alleviate some of the pain and agony and savagery that has plagued us for some time. Those hopes we all share. For his leadership we are all grateful. I am privileged to have had this opportunity to express these feelings I have for the distinguished senior Senator from Maryland.

Mr. ERVIN. Mr. President, I have had the opportunity as a member of the Judiciary Committee and as a member of its subcommittees, on which the distinguished Senator from Maryland and I both serve, to observe the legislative conduct of JOE TYDINGS.

When JOE TYDINGS first came to the Senate, there was a vacancy in the post of chairman of the Subcommittee on Improvements in Judicial Machinery. Technically I was in line for that appointment. But I suggested to the chairman of the Senate Judiciary Committee that Senator TYDINGS be given that appointment. He has done wonderful work as the chairman of that subcommittee in the improvement of the administration of justice in the Federal courts throughout this land.

JOE TYDINGS has several characteristics and traits that I would like to mention. The first is that he never tires in the performance of his duties as a Senator. He has an inexhaustible amount of energy and an inexhaustible amount of industry. He has always done his homework well. He is always able to advance the finest possible arguments for any position he espouses.

JOE TYDINGS is a hard fighter for the things in which he believes. No one in the Senate can testify more fully in respect to this trait than I, because, while he and I collaborated on many things, on several occasions he and I were in a sense opposing legislative gladiators. I know he is a foe worthy of any man's steel.

I think that perhaps JOE TYDINGS' most obvious virtue was a virtue which may have contributed in large measure to his defeat. He has a virtue which, I regret to say, is in short supply among occupants of public office. That virtue is courage. JOE TYDINGS stood and fought for the things in which he believed regardless of what the possible or probable effect would be upon his political fortunes. And I have no doubt that his courageous stand on gun legislation and his courageous stand—since I differed with it, I will not say his intelligent stand—for the District of Columbia crime bill contributed in large measure to his defeat plus the fact that a very scurrilous and very unjustified article appeared in Life magazine at the height of the campaign.

I thought the inferences of the article were totally unsupportable on the facts.

I would like to testify to the fact that JOE has rendered great service as a member of the Judiciary Committee and as a Member of the Senate. I wish that time permitted me to dwell upon some of the bills which he pushed through to fruition to improve the administration of justice.

I think one of his early achievements and one of his great achievements was the creation of the office of Federal Magistrate. I think that has done much to relieve the confusion in the Federal courts. I think it will do much to bring justice to a speedy culmination.

Mr. President, I join those who have testified to the fact that JOE is a gentleman in all respects. He is a hard fighter, but he never hit anyone below the belt who disagreed with him. He is a congenial companion.

I deeply regret seeing him depart from the U.S. Senate. He is young. He is vigorous. I predict that he will do much for his State and Nation in the years that lie ahead.

The PRESIDING OFFICER (Mr. CANNON). The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I find the comments of the Senator from North Carolina, as usual, most solicitious on this particular occasion.

In honoring JOE TYDINGS and expressing our views concerning him today, I find this moment a particularly poignant, for it was in this same Chamber about 20 years ago that I joined my colleagues in paying tribute to his stepfather, Millard Tydings.

In many respects and in a most unusual way, Millard Tydings, whom I had the privilege of knowing, was also a man of unusual courage and was very outspoken.

I recall so well that he was the first man—or among the first certainly—to recognize the danger of the activities of one of our colleagues from Wisconsin who had led the attack upon our Government because of alleged Communist activities, a man who at that time aroused great fear in the minds of many people in this country.

Millard Tydings was one of the most outspoken men.

The coincidence of this occasion of paying tribute 20 years later to his stepson, JOE TYDINGS, arouses many memories of a very difficult time.

I join the Senator from North Carolina with respect to the character of the issues which I think contributed, although I am not an expert in Maryland politics, to his defeat. However, the general impression is that the gun control law and the law which involved some very controversial issues on crime control in the District of Columbia contributed to the defeat of JOE TYDINGS.

It seems such a shame to me that issues, while they are important in themselves or are significant in restricted areas, are not of fundamental importance to the stability and welfare of the Nation as a whole.

If a man is wrong or if he misjudges the sentiments of his constituents on basically important issues, that is one thing. But to be out of tune with one's constituents on issues which are not quite that basic, seems to me to be a great tragedy when it results in the defeat of a young man who has so much promise, who has already done so much in his relatively short period of time in the Senate.

One other aspect strikes me as being very sad, indeed, and that concerns the effect of the article published in Life magazine. One reason perhaps that it impressed me more than the average situation was that I took this matter up with the State Department and particularly with the AID Administration.

Mr. President, this material has been placed in the RECORD and I will not recount all of it. I asked the State Department to give a report as soon as possible upon the accuracy of the allegations in that article. They delayed and delayed, and finally I wrote a letter demanding the facts, stating that if the Department did not reply within 30 days, funds would be cut off, which is in accordance with the provisions in the law.

In any case, the net result was that the State Department deferred any reply until after the election—it was about 2 or 3 days after the election; the following Friday I think—and for all practical purposes, it was a complete vindication of the alleged role that Senator JOE TYDINGS played in that affair. It is a very shabby chapter in our national history. I felt very badly about it. I do not know what can be done about it under our system of elections.

Again, this brings up memories in regard to Millard Tydings. One of the very important incidents which contributed to his defeat was the publication of a completely false photograph. One of the local papers at that time, which no longer exists—I believe it was called the Washington Times-Herald—published a picture which purported to show Millard Tydings with his arm around a then leading Communist of this country. I believe the person was alleged to be a Communist. In any case, a very derogatory picture was published. Later it was learned two different pictures were involved, and that they were put together and published as one picture. That was not proved until after the election. This is a shabby aspect of some of our political life.

It is a great tragedy that JOE TYDINGS should have, in a sense, suffered from a somewhat similar incident 20 years after his stepfather did. Those are some of the dregs, some of the flotsam of history; and those are some of the things that contribute very much to the attitude of some people who say that our system is irrevocably faulty. I do not agree with that. I

think it can be improved by many means—by better education, and certainly by a much higher standard of conduct on the part of the administrative agencies and the newspapers.

I do not know of a single incident of another important newspaper repeating the pointed, outrageous distortion of truth of that incident of the false photograph. For some reason or other, we are inclined to think a photograph is genuine, even though it is obviously false. But in any case, it was a great disservice to the public in the case of Millard Tydings and the photograph, and in the case of JOE TYDINGS with regard to the article in Life magazine, which really had no substance.

Mr. President, those of us who live so much of our lives in the District of Columbia area owe JOE TYDINGS a special debt. As chairman of the Committee on the District of Columbia, he has fought tirelessly to improve the quality of life in this city and he has done a great deal to arouse the attention of Congress and the people to what needs to be done in the city, and I am sure the effect of this work will go on.

It has been mentioned he has done a great deal in the judicial field and in other areas which I will not reiterate now. We certainly need in the Senate and in public life more men with the courage and intelligence of JOE TYDINGS, men who press their conviction in the face of insurmountable political consequences.

The people of Maryland and the people of the Nation, I believe, will deeply feel the loss of a public servant who has represented them so well.

My wife and I wish JOE TYDINGS and his family well in the years to come. I have no doubt he will have great success in the private practice of law and I would hope in some capacity he would resume his work in the public interest as a public official. He and his family certainly deserve well in this community and in the country.

Mr. MATHIAS. Mr. President, I would like to pay a personal tribute to Senator TYDINGS, one which is based not only on our service together in the Senate, but which also looks back many years to a time when he and I occupied adjacent seats in the house of delegates, the lower house, of the general assembly of Maryland. As a member of the house of delegates JOE TYDINGS was forward-looking, progressive, constructive, and I think that these qualities have been a hallmark of his subsequent service as U.S. attorney for Maryland and here in the Senate.

We have throughout these years sat on opposite sides of the aisle. We disagreed on a great many things. We have agreed on some things. But the aisle that separated us has never been so wide that Senator TYDINGS was not willing to step across it to cooperate and coordinate our efforts whenever the welfare of the people of Maryland or the welfare of the people of the United States was involved. He has been objective and thoughtful and I think he has earned the praise which his colleagues have paid him today.

I would like to speak of one area of senatorial service which I think he particularly made his own specialty, and that was his chairmanship of the Subcommittee on Improvements in Judicial Machinery, a subcommittee of the Committee on the Judiciary. This was a subject upon which he expanded a great deal of time. I think that the administration of justice in Federal courts will be markedly improved as a result of his efforts. This is not just my observation, it is an opinion which is unanimous in the Committee on the Judiciary.

The Commttee on the Judiciary has taken the rather unusual step of adopting a resolution of appreciation for the work that Senator TYDINGS has done as chairman of that subcommittee and as a member of the full committee.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a copy of the resolution adopted by the Committee on the Judiciary and signed by all members of the committee.

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

JOSEPH D. TYDINGS

Whereas, the Honorable Joseph D. Tydings has been a member of the United States Senate since 1965 and through that time has been a member of the Committee on the Judiciary, and

Whereas, during that time the Honorable Joseph D. Tydings has been Chairman of the Subcommittee on Improvements in Judicial Machinery and a member of the Subcommittee on Constitutional Amendments, the Subcommittee to Investigate Juvenile Delinquency and the Subcommittee on Refugees and Escapees, and

Whereas, the Honorable Joseph D. Tydings has distinguished himself in the Senate in the discharge of his Committee obligations, and

Whereas, he has enhanced the reputation of the Committee on the Judiciary for legal knowledge and legislative skill.

Now, therefore, be it hereby resolved, that the members of the Committee on the Judiciary do hereby express their heartfelt appreciation to the Honorable Joseph D. Tydings for the many contributions he has made during his service on the Committee, in witness whereof the members of the Committee hereunto subscribe their names this 21st day of December, 1970:

James O. Eastland, John L. McClelland, Sam J. Ervin, Jr., Philip A. Hart, Edward M. Kennedy, Birch Bayh, Quentin N. Burdick, Robert C. Byrd, Roman L. Hruska, Hiram L. Fong, Hugh Scott, Strom Thurmond, Marlow W. Cook, Charles McC. Mathias, Jr., Robert P. Griffin.

Mr. McCLELLAN. Mr. President, I was absent from the Senate yesterday on account of official business in my own State and, therefore, I had no notice or information until just before I arrived in the Chamber a few minutes ago that this time had been set apart for tributes to our distinguished colleague from Maryland. Therefore, my remarks have not been prepared and my remarks will be brief. Nevertheless, they will be sincere. I simply could not let this opportunity pass without joining in the tributes that are being paid to JOE TYDINGS by his colleagues here today.

When I first came to the Senate in 1943, among other assignments, I was named to the Committee on Naval Affairs. His father, the Honorable Millard Tydings, was chairman at that time. I served under his father on the Naval Affairs Committee until Congress was reorganized and committees were consolidated in 1946.

I served with him for some 4 or 5 years. I learned to have, and did have, great admiration for Millard Tydings, for his ability, for his character, for his statesmanship, and for his patriotism. I remember so well his devotion to the armed services of this country and his desire to at all times see that this Nation stayed prepared; that a strong posture of defense was maintained. I frequently cooperated with him in those days, voting for measures to preserve and strengthen our national defense posture.

During the past few years I have served with JOE TYDINGS on the Judiciary Committee, and I have observed and learned to appreciate in him the same commendable qualities that I learned to respect in his father, and for his dedication, his industry, and his aggressiveness to fight for those things that he believed in.

I might go on and say a good many things, but I am going to simply express here publicly what I have said to JOE personally heretofore, and that is my deep gratitude to him for the assistance he gave me when we were battling in committee and here on the floor of the Senate to pass the Omnibus Safe Streets and Crime Control Act of 1968.

As my colleagues will recall, there were titles in that bill that were highly controversial. I think he and I agreed on all of them, save possibly one. We disagreed on one. But there was another one that was highly controversial, the one authorizing court approved interceptions of conversations by wiretap that was bitterly contested. At that time—on that important issue—he stood and fought with me, and we were able to pass that bill in the Senate and bring about the enactment of that provision into law.

I am sure he gets some consolation, as I do today, when we read of the effectiveness of this new weapon which we provided our law enforcement officials with which to deal more effectively with organized crime and other criminal activities that it is difficult to apprehend. I express my appreciation to him again for his valuable cooperation in that legislative battle.

Then, I believe last year, or early this year, we had before the Senate the District of Columbia crime bill, which had been processed under the leadership of the distinguished Senator from Maryland as chairman of the District of Columbia Committee. There were two provisions or titles in that bill that were bitterly opposed—the preventive detention title of that bill and also the no-knock provisions in the bill, which were vigorously contested here on the floor. It was my pleasure then to support his position and to assist in getting the enactment of that legislation.

Mr. President, I do not know how credit can be parceled out—how it can be shared—or who is most responsible for the results, but we do know that as a result of legislation that has been enacted and the special effort that has been made here, the latest statistics on crime in the District of Columbia—and I think this fact is conceded now by

everyone—show that the rise of crime in the District of Columbia, the Nation's Capital, is beginning to recede.

I am sure that had we taken no action, had nothing been done here in the Congress about it, had we not provided the weapons and instrumentalities needed by law enforcement officials, crime would have continued to increase here in the District just as it has throughout the Nation elsewhere. I think the distinguished Senator from Maryland is certainly entitled to his share of the credit for the gratifying results now being achieved in the District of Columbia.

Another thing, Mr. President, Senator TYDINGS has taken a great interest in trying to strengthen the judicial processes in this country. He has sought certain reforms for the courts. He has been a friend of the courts. He has tried to strengthen their hand. He believes in law and order. I think he has made a very substantial contribution to the improvement and strengthening of the law enforcement machinery of this country, and especially here in the District of Columbia. I pay tribute to him.

I agree with those Senators who have already commented on the article that appeared in the magazine. I think it was unfair. I think it was unfounded. I think it was typical of what those of us in public life constantly face today. We are subjected to criticisms that are prejudiced, that are biased. Some of them are vicious. Many are unfounded. While the news media have a right to criticize, and they should, that is the proper function of the news media. But they should, at least, be truthful and deal with facts and not so arrange or distort them as to convey a false impression. They should be willing to publish and stand on the truth only.

I am sure that if that magazine article had adhered to the truth, it probably would not have been published in the first place. In the second place, if it had done that, it could have had no harmful effects in the campaign. I am glad indeed to have this opportunity to join with my colleagues in paying tribute to my friend, the senior Senator from Maryland.

I am not much at predicting, but I have a feeling that JOE TYDINGS will again serve as a Member of this body during the useful public career that I think the future holds for him.

Mr. KENNEDY. Mr. President, I know we could go on for some period. I would like to yield first to my distinguished colleague the Senator from Massachusetts (Mr. BROOKE) briefly, and then to the Senator from Oklahoma (Mr. HARRIS), and then I know the Senator from Maryland (Mr. TYDINGS) would like to speak. That is the order in which I would yield to them. I yield now to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, I shall not review the record of JOE TYDINGS. I was privileged to work with him on the housing bill, the voting rights bill, consumer legislation, and on the registration of firearms.

I think I can say, Mr. President, with some authority, that people who have been denied the opportunity to live in houses of their choice are grateful to JOE TYDINGS for what he has done in the area of the open housing; that people who have been denied the precious right to vote are grateful to JOE TYDINGS for his effective work in that field; and that the consumer, who for so long has been denied protection, is grateful to JOE TYDINGS.

Mr. President, I wish to say further that though JOE TYDINGS was not successful in obtaining meaningful strong gun registration, I am sure that the day will soon come when his efforts will be rewarded with success. This Nation cannot continue to exist peacefully without adequate gun registration. It is ironic that JOE TYDINGS was not victorious because of his courageous fight to see that guns did not get into the hands of the wrong people.

Mr. President, I merely want to say in conclusion that in my book, and in the books of many others, Senator JOSEPH TYDINGS will always be a winner.

Mr. HARRIS. Mr. President, one never becomes accustomed to changes in the membership of this body, but the defeat of JOE TYDINGS in the 1970 election came as a particularly unpleasant shock to me.

He and I came to the Senate at the same time, and, together with Senator MONDALE and the late Senator Robert F. Kennedy, sat as seat mates in a special row of four desks which, in 1965, when we came here, were placed at the rear of this Chamber.

My wife and I have held him and his lovely wife, Ginny, in extremely high esteem and affection.

As has been said correctly and eloquently, we shall miss him from this body, Mr. President. But I think there are two things in the case of JOE TYDINGS which are somewhat different from the ordinary situation when a Member of this body takes his farewell.

First, Mr. President, JOE and Ginny will not leave here to go to some faraway place; they live close at hand, and each of us who have known them will hope to continue to see them frequently, because they will continue to be near and to be neighbors.

Second, despite the fact that Senator TYDINGS, as a prosecuting attorney, as a member of his State legislature, and as a subcommittee chairman and as a committee chairman in this body has made great and lasting contributions to the welfare of his fellow man and to the improvement of the laws and the Government of this country and of his own State, he still is a very young man, and I feel that the most productive years of his career and life are yet ahead of him. I believe we will hear a great deal more of him. I hope we will, because the country needs more men like JOE TYDINGS.

JOE TYDINGS NEVER ASKED FOR A SOFT BALL

Mr. MCINTYRE. Mr. President, I join with my colleagues in rising to pay tribute to a distinguished Senator who has served the people of Maryland and the Nation with great diligence and ability.

Though young in years, JOE TYDINGS has had a long career of public service as U.S. attorney for the State of Maryland, a member of the Maryland House of Delegates, and for the last 6 years as the Senator from that State.

Senator TYDINGS during his distinguished service in the Senate has led many great battles. He has revealed himself as a man who is not afraid to engage in controversy for what he believes. This willingness to stand firm has won him the admiration of all of those who have had the privilege to serve with him.

JOE TYDINGS never asked for a break. He never sought special advantage.

I well recall a softball game played last summer between the staff of my office and the staff of his. Senator TYDINGS was playing. I was coaching my team.

JOE came to bat and, athlete that he is, the pitcher for McIntyre's Maulers bore down and got two strikes on him.

Motivated by senatorial courtesy, I called out to our pitcher to "let him hit." But, JOE TYDINGS shook his head no and signaled for another fast ball.

I suppose I should report that the Senator from Maryland laced that fast ball into center field and drove in two runs. I hate to report also that his team won.

But, this was JOE TYDINGS. He never asked for a soft ball and I know he will not in the future.

May his long career to come bring him, his lovely wife, and his fine family the best of everything they seek. I am sure it will.

Mr. MCGEE. Mr. President, I wish to join in saluting the distinguished senior Senator from Maryland whose 6 years in this body have marked him as a man willing to fight for what he believes in and to stand firm on principle. JOE TYDINGS will be missed as much for those qualities as for his capable work in the Senate, including his work on the Committee on Commerce and his leadership on the District of Columbia Committee. Of course, he will be missed personally by those of us on both sides of the aisle who have come to respect his high standard of service.

At a very young age, Senator TYDINGS has amassed a long record of service to his State and Nation in the Maryland House of Delegates, as U.S. attorney for the State of Maryland and, of course, as U.S. Senator. Surely, there is no reason to believe that his service to the public has been ended. Rather, I am confident that we can look forward to Senator TYDINGS' continued involvement in the matters of public urgency and to continued valuable service on his part.

As one who believes he knows what kind of a man JOE TYDINGS is, I salute him, Mr. President.

Mr. TALMADGE. Mr. President, it is a privilege to join the Senate today in honoring the Senator from Maryland, JOSEPH TYDINGS.

Senator TYDINGS has served his State and Nation in the Senate with great ability and devotion. JOE TYDINGS has been a hard working Member of the Senate. He has been attentive to all the many complicated, and sometimes troublesome, legislative issues that have come before this body in recent years. He has especially been attuned to the social and economic needs of the people, not only in his own State of Maryland but throughout all the country. With tenacity and the courage of his convictions he has worked diligently to achieve solutions.

As Senator TYDINGS takes leave of the Senate, he can return to his home State secure in the knowledge that his years in the Senate have been marked by distinctive service. We all salute him for a job well done, and I express my personal wishes for him for every success and happiness in all his future undertakings.

Mr. SPARKMAN. Mr. President, I want to join my colleagues briefly in paying tribute to the distinguished Senator from Maryland, JOE TYDINGS.

I had the privilege of serving in the Senate with JOE'S father, a very able Senator whom I admired greatly. It was good to know his son, JOE TYDINGS, when he entered the Senate.

During the time he has been here no Senator has been more dedicated to his work. He has been a most industrious chairman of the District Committee and, in my opinion, has done an outstanding job for the people of the District of Columbia. At the same time, he has not neglected in any way his representation of the people of the State of Maryland. He has been a good and an outstanding Senator.

I pay tribute to JOE TYDINGS and at the same time to his wife, Ginny, who has stood by him throughout. Mrs. Sparkman and I both regret to see them leave the Senate. We hope that they will be back to visit often.

Mr. BOGGS. Mr. President, I wish to join with my colleagues today in paying tribute to the senior Senator from Maryland (Mr. TYDINGS) on his outstanding contributions and service to the Senate.

It was my very great privilege to serve with Senator TYDINGS for a number of years on the Public Works Committee where I came to respect and admire his broad knowledge and deep concern for the public welfare. His contributions to the work of that committee were many.

Moreover, as Senators from neighboring States, Senator TYDINGS and I have shared similar concerns and have worked together to find solutions to problems common to our two States. This cooperation has been an enriching experience for me. I have always found Senator TYDINGS an agreeable, cooperative colleague of uncommon energy and intelligence.

I also know of his outstanding work on the Judiciary, Commerce, and District of Columbia Committees of this body. To each he has contributed his powers of reason, his clear expression, and his vision.

It has been my pleasure to serve with Senator TYDINGS for the last 6 years. I value our friendship very highly and I wish him well in the future.

Mr. MUSKIE. Mr. President, JOE TYDINGS of Maryland has served only one term in the Senate. In that time he has amassed a record of solid achievement for which he and the people of his State can be proud. It is a loss to the country that he will not be here to build on that record in the next 6 years.

As chairman of the District of Columbia Committee—the youngest chairman of a standing committee in either House—he worked tirelessly to solve the problems that afflict our large urban areas. He secured enactment of legislation dealing with crime control, court reform, representation of the accused, urban mass transit, air pollution, and consumer protection.

And he has been a staunch supporter of equal rights for all our people—as a floor leader of the Voting Rights Act in 1965 and 1970, as the author of legislation to eliminate discrimination in Federal juries, and as a supporter of open housing.

From the first day of his Senate career, JOE TYDINGS was determined to fight for what he believed was right, whether or not it was popular.

He fought hard for effective gun control legislation, knowing he faced the strong opposition of one of the most powerful lobbies in the country.

He pressed for passage of a controversial crime control bill in an election year, knowing it would hurt him at the polls.

He worked for reform of our antiquated electoral college system, knowing he faced opposition from those with a stake in the status quo.

He was, for too short a time, a valued member of the Subcommittee on Air and Water Pollution. As such, he was an uncompromising fighter for more effective legislation to deal with environmental degradation.

Because of the commitment and convictions which were the foundation of his Senate work, the JOE TYDINGS' story does not end with his departure from the Senate. For he has shown that a young man with little seniority can make his voice heard in this Chamber, and effect great good for the country.

He has demonstrated that there are still men of conscience who will resist the pressures of the moment.

He leaves behind a record of conscience, of faith in the fundamental soundness of our democratic processes, of commitment to change when change is necessary.

We shall miss him in the Senate. But I am confident that the Nation has not heard the last of him.

Mr. METCALF. Mr. President, one of the real tragedies of our political system is when an intelligent, aggressive, and attractive young man is defeated. This is what happened to Senator TYDINGS. What makes it a tragedy is that a person of his ability and charisma will be out of the U.S. Senate for a period. I predict that he will be back.

Despite the criticism of the seniority system it is with us and probably always will be. Experience, knowledge of procedure, information on national problems are not taught at universities. These skills are learned on the Senate floor, in committee, in meetings with the press and they are hard to come by.

JOE TYDINGS was a master at an early age. A brilliant lawyer, he brought his legal talents to the Congress and used them in the public interest. Senator TYDINGS was an innovator in that he recognized that a legal system developed in the last century needed revision to meet 20th-century problems. He was a patient, plodding worker on the District Committee when he knew, the Senate knew and the Nation knew his talents and his energy should be utilized on national issues.

I knew him as a devotee of wildlife. He was interested and concerned with wildlife and waterfowl. For a time I served on the Migratory Bird Conservation Commission. He succeeded me on that Board. He is an active hunter, a genuine conservationist, and a sportsman in the finest sense of the term.

JOE TYDINGS is an outstanding Senator. He participated in the great debates that featured his term in the Senate. His participation was a contribution. He is a great person. He will be missed in the Senate for a time. But he will be back. The Nation needs him.

Mr. CANNON. Mr. President, I rise to pay tribute to a departing Member of the Senate, JOSEPH D. TYDINGS of Maryland.

Senator TYDINGS has a long and distinguished career in the public service. After serving 6 years in the Maryland House of Delegates, Senator TYDINGS resigned to become the U.S. attorney for his State. Running as a reform candidate in his party in the 1964 senatorial election, JOSEPH TYDINGS won election by over a quarter million votes.

It was both a pleasure and a privilege to serve with JOE TYDINGS on the Senate Commerce Committee. He was a great advocate of consumer protection, and worked vigorously to restore the rights of the purchaser in the marketplace.

Last summer my colleagues were impressed to see that in addition to his varied Senate duties, Senator TYDINGS had found the time to write a major book "Born to Starve," which analyzes world population problems and proposes many interesting and workable solutions. Now JOE TYDINGS will be putting his theory into practice by working 2 months each year for the United Nations development program, specializing in population control programs and I wish him well.

I hope JOE will visit us frequently here in Washington, just next door to his home State. I know we all join in wishing him the best of success for his coming productive years.

JOE TYDINGS: A STALWART SENATOR

Mr. CHURCH. Mr. President, I am pleased to participate on this most deserved occasion in the tributes being paid to JOE TYDINGS. His public service, both before and after he was elected to the Senate, has been of the highest quality. I want to speak about his record, but I also wish to touch on a larger consideration surrounding his imminent departure from the Senate.

There is considerable discussion these days about the politics of personality, of TV-packaged candidates, of emphasis upon style and tone rather than on substance. For all who fear the ominous portent of this trend, let it be remembered that JOE TYDINGS was an issue-oriented Senator. He pursued his views on major issues strongly and unequivocally, regardless of the political risks. His service as a prosecuting attorney convinced him it was necessary to reform the system of criminal justice in the United States. His attentions to the needs of the poverty-stricken families in the Nation's Capital were recorded daily in the newspapers of Washington. He was an early and prominent sponsor of legislation in the field of family plan-

ning. He adamantly sought additional controls over the sale and distribution of firearms. Although I could not always agree with JOE TYDINGS on every issue, I always admired his sincerity and tenacity.

Of course, if the legendary American success story had prevailed, his electoral reward would have been reelection to the Senate. Regrettably, this has not occurred, and consequently his leaving should not take place without reference to the circumstances of his defeat. I state this, because these circumstances contain a warning to each of us here—whether Democrat or Republican, whether a "junior" Member or a "senior" Member, whether "conservative" or "liberal."

There are usually several ingredients in any candidate's defeat. But, Mr. President, in my view, JOE TYDINGS was primarily a victim of devious, misleading and deceptive smears. The responsibility, so far as I know, was neither that of his opponent nor his opponent's campaign managers. No, the agents were those who desired the defeat of JOE TYDINGS regardless of whom his opponent was. JOE TYDINGS was tarred by the same brush as his father before him. The earlier Tydings, Senator Millard Tydings, was similarly victimized during his 1952 election campaign. A deliberately doctored photograph played a large role in the defeat of Millard Tydings. In his son's case, a nationally circulated magazine published an article that accused JOSEPH TYDINGS of self-serving dealings with officials of the Agency for International Development. This article has been shown to be erroneous—JOE TYDINGS was exonerated by the agency after the election—but the damage was done with the article's publication. In addition, a scurrilous full-page newspaper advertisement, just prior to the election, twisted JOSEPH TYDINGS' record beyond the ethical limits of political electioneering.

Both men were casualties of the worst that occasionally erupts in American politics. Each of us should understand that it can—and may—happen to any of us as well. And, consequently, we should commit ourselves to reform of the existing campaign financing system, not only as it applies to the seemingly endless escalation of campaigning costs, but also to the lack of an effective fair campaign practices code.

The political system within which we operate is demeaned by tactics such as those directed against JOE TYDINGS. The smear knows no distinction in party, or between those of differing political tendencies. Therefore, we should act together in this matter out of the realization that there is never a sufficient number of dedicated and sincere public officeholders and to slander them is to slander the political institutions in which they serve.

It is with a heavy heart that I salute JOE TYDINGS as he takes his leave of us. In his chosen mold, strong Senators are cast.

May we see more like him in future years.

Mr. PROXMIRE. Mr. President, of all the Senators I have served with in the 13 years I have been in the Senate, none has shown greater promise for the future than JOE TYDINGS.

Here is a young man who has everything for service to his State and country.

He is intelligent and vigorous. He has remarkable judgment and a willingness to take on the tough, hard issues which no other Member of Congress will tackle.

There is probably no more thankless task than serving as chairman of the Committee on the District of Columbia. For the last 2 years JOE TYDINGS has served as chairman of the District Committee and no Senator has ever served this city better. He has been deeply concerned with its problems. He has fought hard to secure the resources and focus them on the massive problems that plague Washington.

I speak with knowledge and feeling about this because while Senator TYDINGS has served as chairman of the District of Columbia authorization committee, I have worked as chairman of the Appropriations Subcommittee for the District. So I know what a fervent and effective fighter Senator TYDINGS has been for funds for this city.

At a time when some Members of Congress and some outstanding national figures have demagoged on the crime issue, JOE TYDINGS has succeeded in securing the passage of legislation that will go far toward solving this problem that has become such a fearsome burden, not only in Washington but throughout the Nation.

Of course, there are many critical elements in the achievement of justice in America but there is probably none more critical than the integrity and capability of the men who serve in the Federal judiciary. If a judge is not honest and capable, how can any citizen expect to receive justice is a court of law?

JOE TYDINGS recognized this and has carried on an earnest and effective crusade to improve the quality of the judiciary.

A better and more just day is coming in this country. The work that JOE TYDINGS did on the Judiciary Committee in the 6 years he served in the U.S. Senate will contribute significantly to this achievement for justice.

Of course, it is tragic that JOE TYDINGS will be leaving the Senate at the very time when he has developed the experience and the seniority to begin to make greater contributions to his State and Nation but there is no question that this young man in or out of the Senate, in or out of public life has a brilliant future and will help build a better and especially a more just America.

Mr. TYDINGS. Mr. President, I am at a loss for words to express my appreciation to my distinguished colleagues. Their remarks are too kind and too generous.

My 6 years of service in the U.S. Senate, of course, has been the high point of my life to date. The Senate is a great institution. Along with the Presidency, it is the adhesive or cement which holds our Nation together.

A little more than 100 years ago, a Senator from Kentucky, Mr. Clay, a Senator from Massachusetts, Mr. Webster, and a Senator from South Carolina, Mr. Calhoun, on this floor, with a nation that was rent asunder, were able to fashion a legislative compromise which held the Union together for another 10 years, without which we might not have known the Nation as it exists today. That 10 years between the compromise of 1850 and the Civil War was essential to a strengthening of the Union. By helping to cement the States, it made possible the survival of the Union after a bitter and bloody war of brother against brother. And it was in the Senate, this very institution, where the compromise was put together.

Many Senate visitors wonder at the apparently exaggerated senatorial courtesy and respect with which one Member of this body treats another; but in a very real sense that is an essential part of this body, because the Senate contains leaders and representatives of not only every geographical part of the Nation, but, indeed, of the great philosophies which prevail through our national life. This courtesy and respect cushions the conflict of differing views. It is the Senate with its individual Members and its leadership, particularly when we have distinguished leaders—and it has been my pleasure to serve under such leadership, on the majority side, with Senator MANSFIELD, and on the minority side with Senators Dirksen and SCOTT, which binds us together as a nation. It is the Senate, along with the Presidency and House of Representatives, which unifies us. It is the Senate which can heal the divisions, the sores and the splits in the Nation. And it does so far better than any other system I know.

The legislative compromises which are wrought in this Chamber have made it possible, I think, for this Nation to continue, now, through almost two centuries, despite staggering changes in the world, changes that are at times difficult to conceive. Certainly no man who was a Member of any of the first 10 Congresses could have conceived of a world where it is possible to travel from New York to London in 6 hours, or a world where the longevity span of the average American would pass 60 years. Where man has learned to master technology. Where a nation has undertaken to eliminate illiteracy and hunger, and to provide a decent life for all people regardless of race, color, creed and class. Yet all of these tremendous technological and social changes have occurred, and our democratic system of government still survives. Indeed, we are the only Nation with a continuous system under the same Constitution which has lasted for the nearly two centuries. And the system has survived because the institutions like the Senate have respect our differences yet responded to the demands of the times. The Senate is an institution for change and at the same time a symbol of continuity, the continuity of the United States as one Nation.

It has been an honor and a pleasure for me to serve this Nation and the people of Maryland for the last 6 years. I am deeply grateful to my colleagues for their more than generous remarks. On behalf of my wife, Ginny, my mother, Mrs. Ditzen, who was the wife of a great U.S. Senator from Maryland, my adoptive father, and all my family, I want to express my sincere appreciation to all Senators on both sides of the aisle. We are grateful for having had the priv-

ilege and opportunity to serve in the Senate.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the RECORD may remain open for other Senators who wish to pay tribute until the date of adjournment.

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

Mr. KENNEDY. And I further ask unanimous consent that these tributes be printed in a separate document, and that all may appear as if given on the floor of the Senate.

The PRESIDING OFFICER. Without objection, the record of the tributes will be printed as a Senate document.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 17988. An act to amend section 47 of the Internal Revenue Code of 1954 to allow aircraft to be leased for temporary use outside the United States without a recapture of the investment credit,

H.R. 18549. An act to amend sections 902(b) and 902(c) of the Internal Revenue Code of 1954 to reduce the 50-percent requirement to 10 percent between first and second levels and to include third-level foreign corporations in the tax credit structure if the 10-percent test is met; and

H.R. 19627. An act to amend section 1372 of the Internal Revenue Code of 1954, relating to passive investment income.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H.R. 17988. An act to amend section 47 of the Internal Revenue Code of 1954 to allow aircraft to be leased for temporary use outside the United States without a recapture of the investment credit;

H.R. 18549. An act to amend sections 902(b) and 902(c) of the Internal Revenue Code of 1954 to reduce the 50-percent requirement to 10 percent between first and second levels and to include third-level foreign corporations in the tax credit structure if the 10-percent test is met; and

H.R. 19627. An act to amend section 1372 of the Internal Revenue Code of 1954, relating to passive investment income.

MESSAGES FROM THE PRESIDENT—APPROVAL OF JOINT RESOLUTIONS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on December 28, 1970, the President had approved and signed the following joint resolutions:

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 Week";

S.J. Res. 172. Joint resolution to authorize the President to issue a proclamation designating the first full calendar week in May of 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 Day"; and

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."

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 Committee on Armed Services.

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

SOCIAL SECURITY AMENDMENTS OF 1970

The PRESIDING OFFICER (Mr. CANNON). The Chair now lays before the Senate the pending business, which the clerk will state.

The legislative clerk read as follows:

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.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

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

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

Mr. HARRIS. Mr. President, I send to the desk on behalf of myself and Senators JAVITS, MONDALE, and BAYH, an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 418 strike lines 20 through 24, and strike all of pages 419 through 448, and on page 449, strike lines 1 through 10.

Mr. HARRIS. Mr. President, the pending amendment is the first of two child care amendments which were covered by the agreement entered into last night. It would strike that section of the bill which would create a Federal Child Care Corporation.

At this time, I should like to set forth, in brief, an explanation of the amendment and the basic reasons why I hope it will be adopted by the Senate. Then I should like to yield to one of the cosponsors of the amendment, the distinguished Senator from Indiana (Mr. BAYH), for a statement on it. There will be other Senators who will want to speak on this amendment. I shall reserve my argument-in-chief until other Senators have spoken.

First of all, Mr. President, the Federal Child Care Corporation which would be created under this bill, and which would be stricken by the pending amendment, should be stricken, in my view, and in the view of the cosponsors of the amendment, because this is a major piece of legislation dealing with the children of the country and it has not been adequately heard. In the press of other business in the consideration of what came to be called "the conglomerate bill," where issues such as trade legislation, welfare reform, and social security benefits and increases and other major issues took up the major attention of Senators and of members of the Finance Committee. There has not been a sufficient effort to coordinate this piece of legislation and the creation of this new Federal Child Care Corporation with the many other Federal programs which also deal with or touch upon child care or day care services.

Under the provision of the bill which is sought to be stricken by the pending amendment, there would be created a Federal Child Care Corporation to be governed by a board of directors appointed by the President by and with the advice and consent of the Senate.

The Federal Child Care Corporation would undertake to provide child care services under contract with States and localities and others for children of families receiving welfare assistance and others.

It is deficient, it seems to me, in several respects but, first of all, because it is such a massive piece of legislation, it should have, as I have said, far more careful and deliberate consideration.

I point out that there is no need to rush here, at this late date in this session of Congress, to pass this kind of major new legislation when, as a matter of fact, as has already been made clear on the floor of the Senate, during the early days of the next session of Congress, this very next month, the new Senate will take up welfare reform as recommended by President Nixon and by others. In connection with that bill that we will have to consider, child care and day care services, and that will be the appropriate time for us to consider what we are about.

Second, this provision which is sought to be stricken is deficient in two fundamental requirements which I think any system of child care services should meet. Those are parental involvement and community control, which are not adequately safeguarded by the provisions in the bill, and I think that they are absolutely necessary. All the experts who have dealt with this question think they are absolutely necessary—that is, parental involvement and community control—if there is to be a successful program of child care and child development.

Third, the standards set up in the bill are not adequate. They are not adequate in regard to child-staff ratios, not adequate in regard to staff qualifications, and they are not adequate in regard to facility standards. This bill would supersede State and local standards. Last, but most important, those standards are not adequate in regard to child development concepts.

Will this be mere custodial care?

Will there be an educational component?

What sort of standards will have to be met?

What kind of concepts will be instituted under this massive new major child care program?

I think it is well known that a child's early years are extremely important in intellectual development. I think that we had better be awfully careful when we set up a new program which will be very much like and of equal importance to the public school programs in this country, that we had better be very sure about what we are doing, and about what its effect will be upon millions and millions of young schoolchildren in this country.

A good many organizations vitally interested and concerned in this matter, and very knowledgeable in regard to it, have submitted comments in opposition to that provision in the bill in its present form.

These include the Child Welfare League and the National Association for Black Child Development. May I say, Mr. President, that I think the day has long since passed, as I said last night, when poor people or black people or other minorities will sit idly by while outsiders come in, as can be done under this provision in the bill—and it could be a private enterprise franchiser—coming and control the child care and development of the children of that community.

The Day Care and Child Development Council of America, Inc., is also one of the organizations, together with those I have previously mentioned, which are not in agreement with this provision in the bill in its present form.

The same is true of the American Academy of Pediatrics. I invite attention to a letter which that organization wrote on December 18, 1970, to the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG), in which it is stated in part:

> The Academy is gravely concerned with that section of this bill which established Federal child care standards. The minimal standards prescribed in this legislation will result in mere custodial care programs, and will severely neglect intellectual, social, and emotional developmental needs of children.

Mr. President, I ask unanimous consent to have the entire letter written by Robert G. Frazier, M.D., executive director, printed in the RECORD.

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

AMERICAN ACADEMY OF PEDIATRICS,
Arlington, Va., December 18, 1970.

Hon. RUSSELL B. LONG,
Chairman, Finance Committee, U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The American Academy of Pediatrics, the national organization of board certified pediatricians, wishes to express its concern with S. 4101, establishing a Federal Child Care Corporation. This bill, one of the amendments to the Social Security Act reported out by the Senate Finance Committee, would create Title XX of the Social Security Act.

The Academy is gravely concerned with that Section of this bill which establishes federal child care standards. The minimal standards prescribed in this legislation will result in mere custodial care programs, and will severely neglect intellectual, social, and emotional developmental needs of children. Because S. 4101 further provides that state and local licensing and similar requirements would be superceded, much of the constructive work and planning done at state and local levels to enhance the quality of child care programs would be negated. Health services are an integral part of child care and provisions for an adequate health program are needed.

This bill attempts to overcome financial barriers associated with the establishment of child care centers. Although there is a need for such funding, the primary intent of this proposal is to help more mothers find gainful employment. It is our opinion that this objective is being achieved at the expense of the child. Adequate provisions do not exist in the bill to assure that high quality child care programs will be established to meet the developmental needs of children.

The primary purpose of day care should be to offer a sound basis for learning and further development of the child and to support and encourage the mother in her efforts to care for her child. Consequently, the Academy would urge that the provisions of S. 4101 be deleted from the Social Security Amendments this year.

Sincerely yours,
ROBERT G. FRAZIER, M.D.,
Executive Director.

Mr. HARRIS. Mr. President, I pay deserved tribute to the distinguished chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG) for his great and laudable concern for the need to expand and improve child care services available in this country. I believe that mothers receiving welfare assistance are entitled to have high quality child care available to them.

I believe, however, that we should not stop there. I think that the other mothers in this country, not just those receiving welfare assistance, are also entitled to that kind of child care service.

I believe it is terribly important that we not stigmatize child care or day care as being merely a welfare program. I believe that it has got to be a universal program which extends far more broadly than the present provision would allow it to do.

Mr. President, the distinguished Senator from Louisiana is most well intentioned. But I believe that if we can lay aside this provision in the pending bill and take it up again in a deliberate and careful fashion after the first of the year, we will be able to make some important steps forward in providing adequate child care services in this country.

It is important that we do that and take it up again after the first of the year, as we will do if this provision is stricken from the bill. As I said earlier, there are so many programs, programs under the Commissioner of Education at HEW, under the Office of Economic Opportunity, under Headstart, under HUD to some degree, in regard to facilities, and under the welfare laws in regard to those receiving welfare assistance.

It seems to me that we must make some kind of uniform system out of all this hodgepodge we have at present.

We will have time to do that if we agree to the motion to strike the present provision and go into all of this matter in the kind of detail and with the kind of care it deserves.

Mr. President, I am pleased at this time to yield the floor to one of the distinguished cosponsors of the amendment who is quite knowledgeable in this field, the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, I have listened with a great deal of interest to the discussion which has been initiated by my friend, the Senator from Oklahoma. I find myself in a rather unique position, I say to my friend, the Senator from Louisiana, in joining in a motion such as that presented by my colleague, the Senator from Oklahoma, which would strike the provision for day care from the pending legislation.

I say this because for over a year, for about a year and a half now, the Senator from Indiana and his wife, who is his No. 1 adviser in this matter, have been deeply concerned about day care. Together we have examined day care facilities in the United States, in our home State of Indiana, and in the Nation's Capital. We have had the good fortune to compare facilities here with those available in other countries, such as the Soviet Union, Great Britain, the Hague, Japan, and Israel, just to name a few.

In the course of this study, the Senator from Indiana has become convinced that one of the most critical problems confronting us today is the lack of significant child care and child development facilities in this country.

Thus I find myself joining in a motion to strike the child care corporation provision of the distinguished Chairman of the Committee on Finance from the bill.

Before proceeding further, I would like to echo the words of the Senator from Oklahoma in paying tribute to the Senator from Louisiana for recognizing the need that something be done. I do not think that any of us should take lightly the suggestion that is made by the Senator from Louisiana, because this is a start. This is an idea which could be, and should be, considered in an overall study of the problem of child care and development in this country.

If this problem is as significant as the Senator from Indiana feels it is, I do not feel that we should start with just a small crumb, but rather that we should give this problem the study in committee and in debate on the floor that it so rightly deserves.

Mr. President, we are all aware of some of the very difficult and perplexing problems confronting us today.

There is the problem of law and order, the problem of juvenile delinquency, the problem of high school dropouts, the problem of welfare, the problem of the low capability wage earner, and the impact that he has on our economy as a whole, the problem of the obsolescence so far as individual employee skills are concerned, the problem of terrible housing conditions, which produce the ghetto and urban blight. These are just a few of the problems that are tearing at the very foundation of our society today.

There is not a Senator who is not aware of these problems. I think it is fair to say, or at least that is the judgment of the Senator from Indiana, that there is not a Senator who is not concerned with these problems.

As I have looked over them, particularly over the last year, and as I have

studied the potential impact of adequate child care and development programs, it is my judgment that no one program, if it is approached in the right manner, in a comprehensive manner, could do more to alleviate the multitude of problems confronting us than adequate child care and development programs.

These problems are not going to be whisked away with one speech on the Senate floor or with the acceptance or rejection of one Senate amendment. It will not be done in 1 day, 1 month, 1 year, or in 10 years.

The problems are the result of general conditions of neglect and they will not disappear overnight.

The Senator from Indiana thinks that with comprehensive planning of adequate child care and development programs in our lifetime we can hope to reverse the pathways in those areas of our country which today lead only to despair.

So I rise to support the proposed amendment to delete the child care corporation, not because the Senator from Indiana does not believe that this particular proposal might not some day be part of a comprehensive proposal, and certainly not because he finds fault with the desires of the Senator from Louisiana to bring some legislative input to the problem, but because the Senator from Indiana believes that this is a day late and a dollar short approach to the question. It can lead some people to believe that the problem is going to be an easy one to solve and that providing adequate day care and child development centers is going to be inexpensive. It is not. In my judgment, to do the job adequately will cost much more money than most people realize.

I cannot think of a better investment. And let us not suggest that we will get something for nothing. We have had too much of this already in this country.

If we are going to give our attention to the children of America, the Senator from Indiana happens to believe that there is no better place to invest our money.

I think it is to the credit of the Senator from Louisiana that his original bill authorized $500 million for the Federal Child Care Corporation. That would be a good start. However, when the present measure was reported, it contained only $50 million.

It is rather difficult for the Senator from Indiana to talk about only $50 million. We are talking about an expenditure of hundreds of millions of dollars, indeed billions of dollars, if we are going to provide adequate child care and child development programs for the younger people of our Nation.

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

Mr. BAYH. I am glad to yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, the Senator has introduced a measure to expand child development. His bill would start out by spending $2 billion a year and go on to spend about $6 billion a year. It may be that a program of this magnitude is necessary and that it should become law some day. But what we are trying to do in the committee bill is to provide at least enough child care to see to it that mothers who want to work to supplement the income of their families are not denied the opportunity to do so.

I would like to have had a larger program than the Committee on Finance was willing to agree upon, but I would submit that something is better than nothing. The best I can make of the Senator's argument and the argument of the Senator from Oklahoma is that nothing is better than something.

I would earnestly and sincerely hope that we would not be denied the opportunity of doing what is provided in this bill to help provide mothers the child care they need and which will be adequate to meet their needs, merely because we cannot have the kind of program the Senator would like to have.

As far as I am concerned, as a member of the Committee on Finance, I say more power to those who serve on other committees if they can work out something to provide this kind of child development program. As proposed, it will cost from $6 billion to $10 billion.

But for the life of me I cannot understand why the Senator takes the attitude that although the committee bill only provides $50 million for working capital for the corporation and it increases the Federal matching rate from 75 percent to 90 percent, it is still not better than nothing. It seems to me that this is a straightforward attempt to make child care available where it is not available now.

If one can go forward with a program for complete child development as the Senator advocates, more power to him. But I cannot see why the Senator would take the position that nothing is better than something, because in my opinion the committee bill will go a long way toward meeting the problem.

Mr. BAYH. Mr. President, I appreciate the comment of the Senator from Louisiana. As I mentioned earlier, while he was in conference, I think he is to be complimented for directing this matter to the conscience of the Senate in an attempt to move forward.

I find myself in what might be considered by some a presumptuous position, because I have long respected and admired the distinguished Senator from Louisiana. He has served in this body for many more years than the Senator from Indiana, and is the author of many more pieces of legislation than the Senator from Indiana, but I think he would be the first to suggest that we do not solve complicated national problems by passing legislation upon which there have not been extensive hearings. We have not had benefit of such hearings.

I know the Senator has studied this matter, but I have been looking at it for a year and a half and I still do not have all of the answers.

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

Mr. BAYH. I am glad to yield to the distinguished Senator from Louisiana.

Mr. LONG. The Committee on Finance held extensive hearings on the proposal. For example, I have before me the statement of the American Federation of Labor which was made when they testified on the proposal we are talking about. Admittedly the bill as introduced was a bit larger in the amount of money provided for working capital, but basically it was the same proposition. The AFL stated:

> We support the very constructive and comprehensive provisions of the day care bill introduced by the chairman of the committee, which would provide both the financial incentive and the means to eliminate some of the barriers preventing development of day care centers.

That is the statement of the American Federation of Labor. They want child care for children so that mothers can work and earn a decent wage. They favor this proposal strongly.

Other groups testified, for example the Child Welfare League of America. They have some suggestions of ways the proposal might be improved upon, but basically they state that—

> This is an ingenious and innovative plan to design and deliver day care and other child care services appropriate to the needs of a diverse child population. We agree with the bill's findings and declaration of purpose, in section 2001, taken in the context of our understanding of the bill's intent. . . . What is proposed is a means to discover the kinds of services needed by all children and their families, and to arrange for the delivery of those services in the most appropriate, timely, and efficient manner possible.

So I say again that we did have hearings. When I introduced the bill on July 20, I made this statement:

> Mr. President, it would be my hope that persons and organizations interested in child care would study the bill and present their views to the Committee on Finance at the same time as they testify or submit their views on the Family Assistance Act.

We had hearings from August 24 to September 10. This matter was discussed by a number of witnesses. Finally the committee approved this proposal, with some modifications.

The chairman of the committee, in introducing the amendment on which his committee was conducting hearings, urged all interested persons to express their views on it, and, of course, urged the organizations to come before the committee to discuss it. If Senators wanted to ignore the possibility that the amendment was going to be voted on, they could do so. The chairman asked Senators to look at the proposal and urged them to express their views on it if they were interested in this type of legislation.

Mr. HARRIS. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. HARRIS. Mr. President, I wish to respond to the distinguished chairman of the committee as a member of the Committee on Finance. I said earlier I thought there had been inadequate hearings. I was careful to say why. There was certainly no reflection on the distinguished chairman or any indication that he did not give adequate notice that this matter was being considered by the committee. I made clear and I reiterate now that there were inadequate hearings on this provision or any child care provision, because in the consideration of what has come to be called "the conglomerate bill," we had all we could do to consider the trade provisions, which encompassed the

most important revisions in trade law since the Trade Expansion Act of 1962, a new concept of welfare reform, which President Nixon advocated and many of us supported in principle, and concerning which many of us had ideas of our own; and, of course, there was the social security bill, with its financing, benefits increases, the catastrophic illness plan that the Senator from Louisiana presented—all of these matters were together in one set of hearings

We had hearings on most of these provisions, then started executive sessions, then came back for 2 more days on trade, then the committee went back into executive session, and there were just too many riders on one horse; too many things were involved in one bill.

I presided all one afternoon in the Committee on Finance. The Senator from Louisiana was good enough to let me do that so that I might ask questions particularly about welfare reform. But I did not begin to get into all the questions I wanted to ask concerning child care, even though I asked as many questions concerning it as time would allow on that day and on other days.

The surface of the problem of child care and development has not even been scratched. We must really go into this matter. We will have time next year.

There is certainly no reflection on the way the chairman conducted the committee. He did so with complete fairness and complete notice, but I say that Senators were so burdened down with all of the other provisions of the bill that they did not have time fully to consider this major new proposal of the Senator in regard to child care.

That is what I meant by saying there have been inadequate hearings on this provision and insufficient effort to try to coordinate this provision with all of the many other Federal programs which relate to it.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, I believe I have the floor. I would like to make one further remark, then I would be glad to permit free discourse.

I want the RECORD to show that the Senator from Louisiana was busy consulting with his staff when I started my remarks. As the Senator from Oklahoma has just done, I salute him for his efforts. I think in the months he has been looking into this it should be readily apparent even on a casual study of this matter, how complicated it is if we are really trying to solve the total problem.

The Senator from Louisiana has had so many burdens to carry. I do not know how he carries them all. That is why I said earlier I hope the critique and constructive criticism that we are involved in today is taken in proper perspective by our friend from Louisiana.

He mentioned a moment ago that he finds it difficult to see how the Senator from Indiana or other Senators could suggest that no solution is better than a partial solution. I think when we are starting out with a complicated, multifaceted problem involving adequate child care and development, if we are to be totally responsible in our efforts to reach a final consideration, the proposal of the Senator from Louisiana has to be taken into consideration with other needed aspects of this problem. When we start out we might have to retreat, come back to point zero, and then start again on the well-intentioned approach of the Senator from Louisiana. That is why I do not at this particular time, particularly at this 11:30 hour in this session, feel that this is the proper way to proceed. After thorough study, it is entirely possible and conceivable that we will find there is a proper place for corporations to play in comprehensive provision of child care and child development programs.

I made a proposal for the consideration of the Senate. I did not introduce it because I thought, at this stage of the legislative process, something that is as comprehensive as this should not be introduced, since it could not be passed, and it ought to be passed after being subjected to minute study and hearings next year. But I did put in the RECORD that the approach to child care was studied in detail by the recent White House Conference on Children. Frankly, as the result of that conference there are some changes I want to make before I introduce it next year.

One thing that comes to mind is that there are a number of child-care centers today, concerned that a major national child-care program would make it more difficult for them to operate. That is not our intention. We want to help those child-care centers that are being operated today, and at the same time do something about the despicable child-care centers that are not really child-care centers at all, but inadequate custodial centers, and some of them I would not want to be caught dead in.

I yield to the Senator from Minnesota.

Mr. MONDALE. I thank the Senator for yielding.

The Senator from Louisiana asked the question whether something is not better than nothing. The answer to that is that to do the wrong thing to children may be worse than to do nothing. What I fear in this pending proposal and why I am supporting the Javits-Harris amendment to strike is that the basic philosophy underlying the proposal is to let the mother work and store the children somewhere while she is working.

The question is: Is the emphasis upon the development of the child or is it upon letting the mother to get to work? The trouble with this proposal is that it is the latter.

It fails to recognize and make provision for the special child development needs of millions of disadvantaged youngsters who suffer irreparable harm from a lack of adequate nutrition, health, and educational assistance in the crucial first years of life.

It reveals an emphasis on the needs of adults to find or maintain employment rather than on the best interest of the children involved—two goals which sometimes conflict.

It contains none of the necessary emphasis on parental participation and community involvement in child development efforts.

Let me emphasize how important this parental and community involvement is. There are hundreds of thousands of Mexican-American, Puerto Rican, black, and Portuguese, and other minority group children with different cultures, different languages, and different backgrounds. Many times those of us in the white middle class, with the best of intentions, thrust on those children our notions, our language, and our ideas, and as a result mangle those children, insult them, put them down by our behavior. By our example we are saying to them that their culture is inferior and ours is superior. This runs through our school system. It is one reason why they were able to identify in New York City last year only 200 Puerto Ricans who got academic degrees out of a total Puerto Rican student body of a quarter of a million in that city. We have not been responsive to their needs. Yet there is nothing in this proposal which will remedy that basic problem. There is nothing to guarantee the parental and community involvement that is necessary.

Finally, it contains a general thrust toward full day, full week day care programs without sufficient emphasis on part time, part day tutoring programs such as the infant research project here in the District of Columbia which hold so much promise for real child development.

I favor putting more money into creative child development efforts. But in my judgment there is one over-riding nonnegotiable criteria for determining whether early childhood development efforts should be supported. That criterion is not whether the program enables mothers to work, but whether the program enhances the child's development. I do not see this criterion receiving the priority it requires in the Federal Child Care Corporation proposal.

There was just completed in Washington a White House Conference on Children. Four thousand people came from all around the country, including many of our Nation's experts, many of them having been involved in this problem. One of their key recommendations was exactly in this area and bears directly on the point I have made. That is the recommendation of the White House conference to strengthen the family, to bring the parent or parents and the children together, to have early childhood development programs that treat the family as a unit and do not simply stack children like cordwood in some kind of custodial care center while the mother is working.

It so happens that the head of the Office of Child Development, Dr. Zigler, is one of the most gifted men in this field in the world. I commend the administration for finding him and putting him in this position. I am sure that on the basis of his advice, the Department of Health, Education, and Welfare has urged the adoption of the motion to strike.

How to deal with children in early childhood involves the best and most sophisticated kind of advice that we can receive. To preempt or to go into the field with a new corporation, with this kind of remoteness for the community, and with this kind of job oriented and nonchild development program, seems to

me is a step in the wrong direction. It can do more harm than good.

For that reason I join the Senator from Oklahoma (Mr. HARRIS) in the motion to strike.

Mr. LONG. Mr. President, I would hope the Senator would not continue to beat a straw horse by arguing against what is not in the amendment. The Senator argues that this is something that forces mothers to go to work. But experience shows that all over the country there are mothers who want to go to work but cannot go to work because they have no place to leave their children to be cared for while they are working. This provision of the bill would seek to provide that opportunity where it does not exist now.

The Senator somehow assumes that the committee bill is not concerned with the welfare of individual children. But let us look at the aim of the Corporation, as stated on page 420 of the bill. The language of the bill requires the Corporation to "promote the well-being of all children by assuring that the child care services provided will be appropriate to the particular needs of the individuals receiving such services."

Mr. President, child care provided by the Corporation may well include the comprehensive child development programs of the kind the Senator would like to provide for all children. But not all child care need be of that type. For example three out of four children on welfare are school age children. Since they are already going to school, they do not need an educational program after the school hours are over. For most school age children, it should be sufficient to provide them a good recreational program, both outdoors and indoors. After all, what kind of things do school age children do if their mothers are not working? Typically, after school they play in the backyard or on the playground, or watch television with their friends.

Now, as to the scope of the corporation's operations, this provision is not limited to people participating in the work incentive program, or to other people on welfare. This is and has been all along, since I first introduced the proposal, intended to help all mothers who want safe and adequate child care for their children. They should have an opportunity to get the kind of child care they want, provided either at their own expense or, if they are drawing welfare assistance, at the expense of the Government. The committee bill is not at all intended to segregate children on welfare from other children; it is in fact intended that all kinds of children be provided the care.

As it stands now, out of at least 7 million children who need child care because their mothers work, there are only 700,000 of them who are in any kind of licensed child care facility at all. The bill provides standards; perhaps the Senator would like to have them higher. The standards in the bill were very carefully considered, and we think that they are about as high as can be reasonably required at the present time. We do provide standards to guarantee such things as safety and healthful conditions. The main thing is that the bill provides a mother with a variety of choices of kinds of child care if she lives in a city that is large enough to have a number of child care facilities.

Just to outline briefly some of the kinds of standards the committee bill provides, Mr. President, we stipulate what the ratio of children to staff must be; we stipulate that the facility must meet the Life Safety Code of the National Fire Protection Association, the nationally recognized and accepted fire safety code; and we provide that there must be sufficient space both indoors and outdoors. Thus where today at least 90 percent of the children of working mothers are in facilities meeting no standards whatever—if they are in any facilities at all—we would hope to reverse that, and have virtually all of the children in facilities which do meet these standards.

The Senator has talked about parent participation as though this is hampered by the bill. The opposite is true. The difficulty today is that when parents try to get together to set up child care services for their children, there is no one to help them. The committee bill will help them. Let me read from page 338 of the committee report:

> Child care services organized by parents or run with extensive parent participation have shown great promise in raising the educational level of disadvantaged children in deprived areas. Groups interested in promoting parent involvement should find it possible to establish child care facilities through the Corporation where they are unable to do so today.

We provide someone to whom they can go, who can help them to set up exactly the kind of child care facility with parental participation that the Senator thinks desirable. The Corporation will help them by providing training, by providing them with the technical assistance and information they need, and by advancing initial operating expenses.

Mr. BAYH. Mr. President, will the Senator permit me to raise a couple of questions?

Mr. LONG. Yes.

Mr. BAYH. He has great familiarity with this particular bill.

Suppose the parents of a given community feel one thing should be done, and the authority for establishing this service under the bill feels something else should be done for the children. Who rules the day in a situation like that?

Mr. LONG. The mother makes the decision as to what kind of child care facility the child will go in.

Mr. BAYH. But the standards, the programing, the type or lack of comprehensive care available at any facility is not determined by the parents involved, but the vehicle for governing it established under the corporation; is that not accurate?

Mr. LONG. The Corporation would make a contract with the provider of child care services. If it is a group of parents who wish to establish a child care facility, then the Corporation would make the contract with those parents and they would proceed to establish a day care center. But the Corporation might also contract with a day care center already run by a city, or one run by a nonprofit organization. But the main point I want to make to the Senator is that it is the mother who would have the choice as to whether she wanted to send her child to this child care center or that child care center, or whether she wants to join with other parents in organizing a new child care center instead. In the first and last analysis, the choice rests with the parents of the child.

I want to point out also that the bill does not require that the State use the services of this Corporation at all. If the State thinks it can do a better job, it can do so. Frankly, the fact is that the States are now doing a pitiful, miserable job in arranging for child care. They are not even using 50 cents on the dollar of Federal funds appropriated for this purpose. In effect we are saying to the States, "If you cannot get the job done, we will put someone in business who will do it for you."

Let me take a moment to document what I have said about the States' failure to utilize child care funds. We all know that there is a crying need for child care for mothers who would like to work, to provide additional family income, to put meat on the table and milk in their children's mouths. Now then, what happened in fiscal year 1969? The Federal Government appropriated $25 million for child care, but what did the States use? Only $4 million. In fiscal year 1970, we appropriated $52 million for child care, and how much of this were the States able to use? Only $18 million out of the $52 million.

In the committee bill, we change the ratio from 75 percent Federal matching to 90 percent, and we also have a stipulation that the States must continue to spend at least what they are spending now. That should mean at least 3 times as much money available for child care. But that will do us little good if we have to rely on the performance of the States.

We must do more than just increase the matching. We must also provide a mechanism for making child care available. We say to the States, if you don't want to provide child care yourselves, we will get the best experts we can find, and have them arrange for child care services. Here is someone who will do the job for you if you don't want to.

This is about the same kind of situation as when one wants to decorate his home. He can do it himself, or he can hire someone to do it for him, or work with someone he has hired to do it for him. Most people are better satisfied if they hire somebody who has some credentials as an interior decorator, but they do not have to do it that way.

Under the committee bill the States, if they want to, can do exactly as they have been doing, though overall there is little to be proud of, or they can do it the other way by doing business with the Corporation, and the Corporation can then proceed to arrange for child care the way that we think, on a nationwide basis, it should be done. The Corporation will be accountable to the Congress to explain what they have or have not done, just as I would like to have Mr. Richardson explain what his department has failed to do. I would like to ask him, "Now, when we gave you money to meet

this crying need for child care, why did not you spend it and get the job done?"

Now that we are proposing to give someone else the job, Mr. Richardson comes along and says, "Oh, we do not want to shake up our bureaucracy. We would prefer to do business as usual."

Our reaction to this is: If you cannot get this job done, Mr. Richardson, then we want to set up an organization that can get this job done. The Corporation will be headed by a three-man board, with 3-year terms, one member's term expiring every year. We will want that board to be accountable to the Congress for its activities to provide for the care of children.

If a member of that board fails to perform the function we intend, we will not reappoint him. As far as I am concerned, the Committee on Finance will not confirm any of those people for reappointment unless they show us they are doing what we are trying to do: namely, provide these mothers with adequate child care for their children.

Mr. HARRIS and Mr. BAYH addressed the Chair.

Mr. HARRIS. Mr. President, I want to answer that question about what has happened up to now.

Mr. BAYH. Well, suppose the Senator proceeds first.

Mr. HARRIS. As the Senator from Louisiana knows, there is a great difference between the present situation and what the Secretary of Health, Education, and Welfare recommends. Under present law, there is a requirement that the States put up 25 percent of the costs. The States are hard pressed, as the Senator knows, and have not been able to come up with their portion of the money rapidly enough.

What the Secretary recommends and I support is that we increase that Federal matching, and then we will see greater action. But the Secretary made it quite clear that the principal reason why they have not had the necessary support from the States in getting these programs underway is that it requires too much in the way of new contributions from the States.

What the Senator would do, instead, would be to set up a totally parallel system, parallel to HEW and related administrative offices and employees, which, goodness knows, seem to be quite a few already. He would set up a totally new corporation, parallel to existing agencies. They would have their own regional offices and some local offices, I presume, and some national offices and some employees. That, it seems to me, would be a terribly duplicative and inefficient use of funds.

Mr. BAYH. The Senator from Oklahoma pointed to one aspect on which the Senator from Indiana wanted to touch. From what the Senator from Indiana has been able to ascertain from the results of his study—and I would suppose from what the Senator from Oklahoma has said and from what the Senator from Minnesota said earlier—little question has been raised about the expertise of the individuals who are now running the Office of Child Development. The question is how we give them the flexibility, how we take the chains off, give them the resources and say, "All right, get the job done."

I think that establishing a separate entity and a new element of the bureaucracy and suggesting that, with minimal funds, they are going to be able to do any better than the other administrative agencies have been doing is begging the question.

Let me, if I may, touch on the size of the job about which we are talking, and then we can talk about some of the details of how we are going about doing it.

This problem is of critical proportions even though it is not readily apparent to the average citizen who hears us discuss it on the floor of the Senate or who reads about a proposal in the newspaper or hears about it via the electronic media.

Today, in our country, we have 14 million children with working mothers. If we are going to set up rigid standards for qualification under a given bill, it seems to me that we have to recognize that only a small percentage of this 14 million total are going to be able to qualify. Of these 14 million children, we need to recognize that 2.8 million working mothers today are the sole support of their families.

I, for one, do not for a moment suggest that it is other than laudatory for a mother to work if she feels that she should work and has the opportunity to do so. I do not think she need be whipped over the back, if she has small children at home, to go out and work.

Perhaps she is needed in the home to provide love, kindness, and guidance for those children. But if it is her desire and if it is possible for her to find gainful employment, I think this is fine.

I think that what we are arguing about here is the kind of facility that is available for her. In the past, almost all attention—particularly official attention, unfortunately—has been directed at custodial care. If we are talking about solving the problems that confront us today, it has to be more than custodial care. It has to be child care and development—not just care.

Like it or not, we have to look at the present figure of 2.8 million working mothers and recognize the trend that has occurred. In 1940, 10 percent of the working mothers had preschool children. In the 1960's, it was 40 percent. The trend indicates that in 1970 it is going to be as high as 70 percent. If we think the problem is great now, it is going to be even greater, and we want to start with a program that can ultimately cope with the gigantic size of the problem.

One thing that concerns the Senator from Indiana is that we need to make this a comprehensive care program, not just custodial. It needs to deal with the problems of health, nutrition, environment, and all the other aspects that lead to the development of an adolescent and, hopefully, an adult who can go out in society and fend for himself and shake off the shackles of neglect that may have been on the shoulders of his parents.

Also, I want to emphasize again that when we are talking about $50 million, I think we almost, by definition—if not specifically—by administration, are going to confine that to the most desperate need dollarwise. Today, one of the unique characteristics of child care and development is that it is not needed just by the poor and by those who live in the ghettos; but, increasingly, large numbers of middle-income families have mothers who are now working. As the cost of living goes up, there has to be a second wage earner in more and more homes to foot all the bills. So we find middle-class mothers going to work, and there is no place at all to care for their children.

Mr. President, I ask unanimous consent to have printed in the RECORD an abbreviated section-by-section analysis of the proposal to which I alluded earlier, which was the subject of a floor statement, of a bill I intend to introduce next year. This is not for discussion at this time, but so that anyone who is following the debate might have some idea of what the Senator from Indiana is talking about when he talks about comprehensive care.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION BY SECTION ANALYSIS OF UNIVERSAL CHILDCARE AND DEVELOPMENT ACT OF 1971

(As proposed by Senator BIRCH BAYH, Dec. 10, 1970)

SEC. 2—STATEMENT OF FINDINGS AND PURPOSE

States (a) the findings of Congress that (1) The provision of adequate childcare, including developmental programs for infants, children of preschool age and children up to 14 years of age in need of such care is of the highest national priority;

(2) adequate family support for the care, protection and enhancement of the developmental potential of children does not now exist;

(3) the mobility of our society has tended to separate family units from traditional family support thereby affecting the quality of life, including the proper care and nurture of the young;

(4) appropriate childcare services and resources are not now available to provide needed family support;

(5) such services and resources are necessary in a modern society to ensure adequate care and development of the children of this Nation, the opportunity for parents to participate as productive members of society and the opportunity for parents to achieve their own potential as humans.

States (b) It is the purpose of this Act to provide financial assistance in order to fulfill the responsibility of the Federal Government to contribute to attaining an optimum level of adequate care, developmental and other services for young children, to help to assure the stability of the family unit, and to offer an increased opportunity for parents to participate in society at the maximum level of ability.

SEC. 3—PROGRAM AUTHORIZED

Authorizes the Secretary of Health, Education and Welfare to make grants to the public agencies created by the Act.

SEC. 4—ALLOTMENT OF FUNDS

Allots funds in proportion to the number of children in each state, infant to age 14.

SEC. 5—USES OF FEDERAL FUNDS

Authorizes the use of grants for planning and furnishing childcare services including (a) infant care; (b) comprehensive preschool programs including part day and day care programs; (c) general childcare services for children 14 and under during evening and night time hours; (d) day care programs before and after school for school

age children 14 and under in need of such care; (e) emergency care for young children 14 and under; (f) day care and night care programs to aid working parents and (g) combinations of such programs. Health, nutritional and social services will be an integral part of programs funded. Planning, research, and construction funds are provided.

SEC. 6—APPLICATIONS FOR GRANTS AND CONDITIONS FOR APPROVAL

Sets conditions for the application for and approval of funds granted to the Child Service Districts including criteria for fiscal accountability, periodic evaluation, and other requirements as may be necessary to assure proper disbursement of funds. Programs funded must be consistent with criteria and standards of quality prescribed by the Secretary and consistent with the purposes of the Act.

SEC. 7—CHILD SERVICE DISTRICTS

Authorizes establishment of public agencies named Child Service Districts. Such Districts will not be larger than the attendance of five public schools. The geographic boundaries of each District shall be determined by appropriate local officials in each Standard Metropolitan Statistical Area over 100,000 persons. State officials will determine District boundaries in all other areas in given states. Governors of each state shall conduct elections in each district to choose a Board of Directors for each District. Eligible voters are parents having one or more children who have not attained 15 years of age who reside with their children within the geographic area of the District established pursuant to the Act. The Board of Directors will consist of 9 to 15 members. It will plan for, contract for, and operate programs authorized by the Act. In all municipalities having populations greater than 100,000 persons, one or more Child Service Advisory Councils shall be appointed by the chief executive of such municipality. Advisory Councils shall consist of representatives of public and private agencies with established interest and expertise in the area of childcare and development services, and function as a consultative body to the Districts. For those areas of each State not included in municipalities over 100,000 population, a State Child Service Advisory Council will provide consultation.

SEC. 8—LOANS AUTHORIZED

The Secretary of Health, Education, and Welfare is authorized to make loans to any Child Service District for construction or remodeling of facilities appropriate for use as Child Service Centers and other facilities deemed necessary to provide services assisted under the Act. Applicants must be unable to secure a loan from other equally favorable sources and must assure that construction and remodeling will be both economical and consistent with delivery of quality service. Loans shall be repaid within twenty-five years. A total of $600 million is authorized to carry out this section; $300 million for the fiscal year ending June 30, 1972; $200 million for the fiscal year ending June 30, 1973; $100 million for the fiscal year ending June 30, 1974.

SEC. 9—RESEARCH, DEMONSTRATION AND TRAINING—PROJECTS AND TECHNICAL ASSISTANCE

The Secretary is authorized to provide for (1) research to improve childcare and developmental programs (2) experimental, developmental, and pilot projects to test effectiveness of research findings; (3) demonstration, evaluation, and dissemination projects; (4) training programs for inservice personnel; (5) projects for development of new careers, especially for low income persons.

SEC. 10—PAYMENTS

Each approved applicant will receive a grant amount equal to the total sums to be expended under the terms of the application or such lesser amount as the Secretary determines on the basis of objective criteria, relating to fees charged to the parents of children to be served if any, and other similar factors prescribed that the applicant can afford.

SEC. 11—WITHHOLDING OF GRANTS

Grants may be withheld after reasonable notice for failure to comply substantially with any requirement or applicable provision set forth in the Act.

SEC. 12—RECOVERY OF PAYMENTS

Provides that, if a facility which was constructed with the aid of federal funds under this Act ceases to be used as a public childcare facility within 20 years, the government can recover from the facility's owner the portion of its value which is equal to the federal share of the original cost of the building.

SEC. 13—REVIEW AND AUDIT

Provides for access for audit and examination of records by the Comptroller General.

SEC. 14—LABOR STANDARDS

Provides that prevailing wage rates shall be paid to laborers and mechanics employed on construction projects assisted under the Act.

SEC. 15—EMPLOYMENT AND BUSINESS OPPORTUNITIES FOR LOWER INCOME PERSONS

Provides opportunities for training, employment, and business development for lower income persons in the planning and implementation of projects authorized by the Act.

SEC. 16—ADMINISTRATION

Establishes the Office of Child Development within the Department of Health, Education, and Welfare to administer the provisions of the Act. The Director of the Office shall report directly to the Secretary.

SEC. 17—EVALUATION AND REPORTS

Provides for complete review of programs assisted under the Act. Requires the Secretary to directly consult with as many of the members of the Child Service District Boards of Directors as possible. Requires the Secretary to submit annually to the Congress a report on the administration of the Act.

SEC. 18—REPEAL, CONSOLIDATION AND TRANSFERS

Consolidates major early childhood, day care, child service, and preschool programs authorized by existing laws to form a single coordinated comprehensive childcare and development program in the Department of Health, Education, and Welfare.

SEC. 19—DEFINITIONS

Defines the terms used in the Act to insure accurate interpretation of its intent.

SEC. 20—AUTHORIZATION OF APPROPRIATIONS

Fiscal year 1972, $2 billion.
Fiscal year 1973, $4 billion.
Fiscal year 1974, $6 billion.

Mr. BAYH. I think the Senator from Louisiana was accurate when he pointed out that some of these children are not going to need babysitters. Some of them are going to need a playground, a warm room. Too many children today rush home with the key around their neck, with nobody there but perhaps the rats that scurry around the tenement. So I salute the Senator from Louisiana for his goal to have maximum flexibility. I am concerned however that we really are not going to have maximum flexibility under his bill, the way it is written.

I do not criticize the Senator from Louisiana for this, but I think we need to recognize that if we accept as a beginning this type of minimal program, we are providing a sedative to deal with a problem that requires a comprehensive, costly program. I want an efficient program. I want $1.10 worth of delivery for every dollar we spend, if that is possible. But let us not deceive ourselves. This is going to cost a lot of dollars. As I said earlier, I cannot think of a better place to invest our dollars.

One of the significant aspects of this bill about which I still am concerned despite the very thoughtful discussion by the Senator from Louisiana in answer to a question I posed is that it does not provide for the type of local control we need. We have in this bill approximately five pages of standards which, as I understand them will have to be applied universally. One of the things we need to recognize is that the problems that exist today in poverty and in urban blight are not solely problems that can be solved in the classroom. We have to get people involved—mothers involved, fathers involved. We have to make this a family operation. The more we can get local people involved in deciding what their children need, the more chance we have of finally breaking the shackles and moving forward with a total program. That is why in the proposal of the Senator from Indiana and in the proposal of some others, we provide for direct involvement of mothers and fathers in planning and administration of programs.

I note that the National Advisory Council on Child Care, established by the well-intentioned proposal of the Senator from Louisiana points out—and I read from page 441 of my bill:

> And the remaining appointed members shall be selected from individuals who are representatives of consumers of child care (but not including more than one individual who is either a recipient of public assistance or a representative of any organization which is composed of or represents recipients of such assistance).

I wonder whether this is really giving us an opportunity to have on that advisory council enough individuals who really are directly affected by the problems of poverty and neglect which unfortunately confront too many of our children today.

Mr. President, I do not want to belabor this matter any more and I would hope that the Senator from Louisiana would take this criticism of the Senator from Indiana in the light in which it is given.

As I said earlier, perhaps there is a place for such a corporation, but it should be determined after comprehensive hearings and study by committee and thorough discussion by this body. Then let us come forward with a full-fledged bill and a comprehensive program that can realize that children are individuals and what we are trying to do is to say that every individual born in this country has equal access to the American dream, which we talk about but unfortunately, large numbers of our children never have that opportunity.

I might make one closing reference to the White House conference, because the White House conference came along after the introduction of several bills and the proposal of the Senator from Louisiana

and the Senator from Indiana. It brought under one roof, I suppose, more experts both at the national and grassroots level, experts concerned about and familiar with the problems of children, than I think has ever been brought together before. They wrestled with problems we are wrestling with now.

A fair consensus of their suggestions would be that they feel only a comprehensive approach can solve the problem.

I hope we will not be satisfied with just a crumb. We have been satisfied with crumbs for too long as far as our children are concerned. We speak in laudatory terms about the need to care for our children, along with the need for motherhood, God, and the American flag.

The time has come to stop talking and start making some significant investments in this area.

Unfortunately, the investment that was originally intended by the Senator from Louisiana has now been cut to one-tenth of its original proposal and, in the judgment of the Senator from Indiana, that is not sufficient for what we really need to have done.

I appreciate the courtesy of the Senator from Louisiana, and to learn from discussing with him, his interest in this problem.

I am hopeful that out of this debate will come not just a temporary solution, or a beginning but, indeed, the foundation on which we can build an ultimate solution to the problems that confront our children.

I notice that Carl Rowan, an outstanding columnist, who has served his country well, wrote a stimulating and perceptive column not long ago about the problems of poverty, the poverty change, and the poverty cycle. He said that we are never really going to be able to break the poverty cycle of "Poor home, poor education, poor job. Poor home, poor education, poor job. Poor home, poor education, poor job," until we are able to harness the system of public education to achieve that end.

Many of us who have studied the problems that confront young Americans today, teenagers, pre-teenagers, which unfortunately they carry with them to their dying days, have to recognize, that the traditional definition of school, as given in the admonition by Carl Rowan, cannot be accepted today, if we are going to solve these problems. All too often, we provide a first-class educational opportunity for a first-grade, 6-year-old, only to find that because of the horrible environment to which that young, impressionable human being has been subjected during the first 6 years of its life, because of malnutrition, or undernourishment from the point of conception, this young human being may be mentally retarded, and unable to take full advantage of a first-class educational opportunity.

The Head Start program, which was one of the most innovative devices we have developed to recognize the need to start early, if we are going to deal with these problems, has not been totally successful because we learned that we cannot take a young 5-year-old or 4-year-old out of its horrible environment in the summer, or during the year, and then subject them to that same horrible environment for the rest of their young lives and expect not to have almost total regression.

What we need is a program to start early. As soon as a mother wants to leave her child in a day care development center, she should have the opportunity to do so. If the mother wants to work, fine. We should have a total, comprehensive program that deals with education, as well as custody, and with medical, nutritional, and environmental problems. They should be administered during out of school and after school hours. We should care for the problems of a mother who works from midnight to 8 a.m. or from 8 a.m. to 4 p.m. These are comprehensive problems. We cannot just scratch the surface of the problems and expect to get any results.

So it is with this thrust in mind that we should have a program that truly starts with the child, its needs for services, and the family needs for services, and its continuance through the early teens, if necessary, until we finally get that child on its own two feet, so that he or she can hold its head high, have pride and dignity, and the capacity to move out on its own and make for himself or herself a meaningful life.

I know that the Senator from Louisiana wants to accomplish this goal. I am just concerned that the vehicle he presents us with, although well intentioned and with the study he has brought to it, is not going to do the job that needs to be done.

That is why I, with great reluctance, find myself on the opposite side of an issue on which I know the Senator from Louisiana, the Senator from Indiana, the Senator from Oklahoma, the Senator from Minnesota, and others, want to see resolved. We are looking down the road and we see that shining moment with the opportunity to accomplish the same goal but appear, at least for the present, to be wanting to travel different pathways to reach that goal.

Mr. LONG. Mr. President, the problems existing here, I find, strongly parallel the problems of providing public service employment to the needy.

The Finance Committee, in looking at the welfare problem, felt that one way to help would be to provide jobs in the public sector. So it was suggested by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Oklahoma (Mr. HARRIS) that as part of the bill, we should provide some public service jobs, about 30,000, at least, to provide opportunities for people to do something that would benefit the community.

That was included in the bill. The administration was not particularly enthusiastic about it, but they went along with it. I believe the motion agreed to was made by the Senator from Georgia (Mr. TALMADGE), but the committee generally shared that worthy purpose. These Senators agreed that we would do what we could to gain as much acceptance as we thought we could get for public service employment, to put people to work who otherwise would be on welfare.

There are many kinds of public service jobs that need to be done, from helping to clean up neighborhoods, to serving as policemen, teachers, or nursing aides. With this goal in mind, we succeeded in providing about 30,000 public service jobs in the Committee bill.

Meanwhile, the Committee on Labor and Public Welfare had a much more ambitious plan. They reported a bill, which I voted for, starting out in 1972 with 400,000 public service jobs, more than 10 times as many as we have in our bill; and in 1973, 500,000 public service jobs.

But the President of the United States vetoed that bill. I voted to override the President's veto. I would be happy to have 500,000 public service jobs made available. If we cannot provide a job in the private sector, public service employment is better than having a person living on the dole.

The devil finds work for idle hands to do. It is certainly better to put these people to work than to have them sitting around doing nothing. We should put them to work doing something useful.

But that attempt to create public service jobs failed in spite of the good work of the Labor and Public Welfare Committee. The President vetoed the bill. We tried to override the veto, but failed. So that was the end of it.

Let us now look at the problem that exists in the child care area. In the 1967 amendments we tried to provide an opportunity for everybody on welfare to have an opportunity to have training and to get a job, a subsidized job, if need be. We realized that to provide this kind of opportunity for mothers, child care would have to be available.

This year we undertook to try to find out why it was that the Labor Department was such a miserable failure at making the program work. We found that mothers wanted to go to work, but could not obtain child care for their children.

Twenty-five million dollars was appropriated to HEW in fiscal 1969 to provide child care for children if the mother wished to work. What did the Department use? It used only $4 million of the $25 million which we appropriated. We provided six times as much money as was used to provide child care.

This year, we appropriated more money to provide adequate child care so that those mothers who wished to could work. We provided $52 million. The Department of Health, Education, and Welfare spent $18 million.

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

Mr. LONG. I yield.

Mr. HARRIS. Mr. President, will the Senator state on what matching basis the expenditures were provided and what the matching basis is that the Secretary of HEW now recommends that funds be provided.

Mr. LONG. It is on a 75-percent basis today. In the committee bill, we raise the matching to 90 percent.

We would like to increase the child care expenditures well beyond $52 million. Going in the direction desired by the Senator, we think we need a bigger child-care program. But we also find that there is a need to give the responsibility for providing this care to someone who knows how to do the job.

The Senator talks about States not having adequate funds. But they have not used the funds that we have already

provided. The man in the administration who is an expert in this area, Mr. Zigler, in describing to the committee the problems in expanding child care, said:

I think it is probably true that there have been so many demands placed on both profit and non-profit groups that in certain instances it is becoming ridiculous because there is overlapping responsibility on the part of local people, State people, and so forth. I think if we are serious about setting up a worthwhile social institution such as day care for working mothers we may have to develop guidelines at a national level which would have some nationwide application. It would be a standard process because now it is too difficult and it is too rigid, and I am very much afraid the professionals have overdone themselves here.

Mr. HARRIS. Mr. President, does it not do one other thing? Does it not set up another overlapping and duplicating agency, the new child care agency?

Mr. LONG. It takes the Secretary of HEW, who has failed completely in providing child care, and the Secretary of Labor, who has also failed completely in this effort, out of the picture as the exclusive providers of child care services.

Mr. HARRIS. I believe that a Senator said earlier that the States are confused over whether to proceed under the present system or under the new system. It would not take them out of the picture. It would add one other factor.

Mr. LONG. Mr. President, the bill would create a corporation composed of people who know something about child care.

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

Mr. LONG. I yield.

Mr. BAYH. Mr. President, the Senator from Louisiana does not want to leave the impression that the present director of the Office of Child Development does not know anything about child care.

Mr. LONG. On the contrary. He is a good man. He would be a fine man to serve as chairman of the board of the Corporation. But I would like to put this responsibility in a new organization that has the ability to get this job done. If the board does not get the job done, we can do something about it.

Secretary Richardson has 50,000 other worries, not the least of which is trying to get the family assistance plan passed in this Congress.

We would put this responsibility on the Corporation. There would be three members of the Corporation's board. The term of one member would expire each year. If the members of the board do not get the job done, then we will ask them when they come up for reappointment why they failed.

We have also found that there are all sorts of problems concerning overly rigid State and local standards required of child care providers.

I think that anyone who has been a Governor or a mayor knows how these things happen. Someone has some kind of material, and he thinks it would be a great thing if there was a requirement that his type of material be used in public buildings. This is then made part of the building code.

There is a lot of space in good, modern church buildings that could be made available for child care centers. The space is used for Sunday schools, but it is not made available for child care purposes because of restrictive building codes.

We say that there should be Federal standards for day-care centers. For minimum safety standards, we would use the life safety code of the National Fire Protection Association. That is a nationally recognized safety standard. If a building meets that standard, it will be adequate for a child-care center.

The bill also provides $50 million in initial operating capital for this corporation to train people to work in child-care centers and to sign contracts with groups to help them provide child care. Subsequently, the corporation would be authorized to borrow $50 million annually to help construct additional facilities. That authorization would go into effect 2 years in the future, and would probably be used sparingly.

With the provisions in the committee bill, there ought to be at least three times as much money available for child care as was available in the past.

And, together with more money for child care, we want an organization in the child-care business that knows someing about providing it. Let us not forget that more than 90 percent of the children whose mothers are working are either receiving no child care or are receiving it in child-care centers that could not meet any standards whatever.

We provided standards in the committee bill that we thought would be adequate. There are health standards. There are nutritional standards, and standards to assure adequate indoor and outdoor space.

We provide that the purposes to promote the well-being of all children by assuring that the child care services provided will be appropriate for the particular needs of the individual receiving such services. The whole proposal is centered on the good of the child.

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

Mr. LONG. I yield.

Mr. PASTORE. Mr. President, what is the corporation the Senator mentions? Is is a national corporation?

Mr. LONG. It is a national corporation, called the Federal Child Care Corporation.

Mr. PASTORE. It would be appointed by whom?

Mr. LONG. The Board of Directors, consisting of three members, would be appointed by the President. There would also be an advisory council committee of 15 members, the majority consumers of child-care services.

Mr. PASTORE. How far would that jurisdiction extend? Would it preempt the jurisdiction of the State?

Mr. LONG. It would not. The State could contract with this Corporation to provide for child care if it so wished, but it would not be required to. It could make its own arrangements for child care. Frankly, as the situation exists today, most States are doing little in the child-care area. Under the proposal, the State could contract with the Corporation, which will have the capability of providing the child-care services, if the State wishes them to do so.

Mr. PASTORE. Could they not do that without the corporation?

Mr. LONG. They could not contract with a Federal corporation that does not exist. Of course, without a corporation the State could contract with some group that they hope would assist them in providing child care.

Mr. PASTORE. If we give them this 90 percent the Senator talks about, they put up their 10 percent. Why could not they on their own exercise exclusive jurisdiction to provide these facilities?

Mr. LONG. They could. The problem is that it is not being done now.

Mr. PASTORE. What guarantee do we have it will be done with the Corporation?

Mr. LONG. The Corporation would be exclusively interested in and involved with making child-care services available.

Mr. PASTORE. Does the Senator mean the Federal Government is not?

Mr. LONG. The Federal Government is interested to the extent of providing money for child care, but we are not getting results. We have a crying need for child-care services, but Federal funds go unused for lack of a mechanism to actually assure that child-care services are made available.

Mr. PASTORE. Maybe we did not get results because the matching was 25 percent against the 10 percent now. Maybe they did not have the money.

Mr. LONG. That is what one Senator said, but testimony before the Finance Committee has shown that there are other reasons. Here is what Mr. Ziegler, head of the Office of Child Development, said about this problem.

He said that overly rigid local ordinances designed to protect the physical welfare of the children have been enacted at the expense of the psychological well-being of the children and that he accordingly does not find himself in sympathy with some of the things now being done in the child-care field.

He meant that some States pass laws with regard to child care which may be too restrictive. The committee bill simply sets Federal standards and says that if a facility meets these standards, then it complies with whatever requirements may be necessary for a child-care center.

Why is there a big argument against what we are trying to do here? This would put an organization in the child-care business that is exclusively interested in child care, a corporation that would succeed in accomplishing what we have been unable to achieve thus far.

One problem is that the President held a White House conference where some people came up with some elaborate, albeit worthy ideas about child care. It was said that there are perhaps 5 million children who could benefit from an overall program to develop them educationally and culturally. It would cost at least $2,000 each to provide these children with the kind of care they would like to see; $2,000 multiplied by 5 million children is $10 billion.

Most of the people attending that conference said, "If that is all it takes, $10 billion, then that is what we should have—a program that does everything in the way of child development and nothing less than that."

The Senator from New York has a proposal providing for about $3 billion in child development funds. The Sena-

tor from Indiana has a bill based on the same philosophy which would cost about $6 billion. The Senator from Minnesota has a bill that could cost more than $6 billion. These ambitious ideas may come to pass, and it is all right with me if they do. I will applaud them if they come about.

But in our immediate efforts under the bill we are trying to effectively spend about $300 million to provide child care for mothers who want to work. We do not have to provide $2,000 a child for all these children. Seventy-five percent of the children in AFDC families are of school age. They do not need further education in any extensive manner after school hours. Let us provide supervised recreation for them, or whatever would be appropriate for some other constructive activity for children. That would not cost $2,000 per child. The chances are that $500 a child would be enough, and that would provide for 75 percent of the children.

The objection has been made that we must guarantee participation of the mother in all child care programs. I would like the mothers to participate. Under the bill they would be free to organize and form a child care center as long as it would meet minimum standards. We would be happy to have such a child-care center sign a contract with the Corporation, and the State welfare agency could sign a contract to pay for the child-care services provided. Parent groups that cannot set up child-care centers today would be able to do so thanks to the Corporation.

In short, here is a mechanism that would make available good care for children during the time the mother is not able to look after them. It may be that one of these days the Committee on Labor and Public Welfare will come out with a bill for a comprehensive program costing $3 billion, $6 billion, or $10 billion a year. The way matters have been going with some of these highly motivated programs which the Committee on Labor and Public Welfare has reported, such as the manpower bill, a comprehensive child care bill will probably be vetoed and we will try to override the veto and fail. In the meantime, why should we fail to enact this modest provision for child care?

At the present time adequate child care is largely unavailable. Take, for instance, the highly motivated mother who wants better housing and better health for her family. She cannot provide it because there is no safe place she can leave her child and have the child properly cared for. We want somebody to provide for that care. If the States think they can provide it, that is good; but if they do not wish to, at least they would have someone to help them, and this will result in better child care.

Furthermore, many States would like to have the Federal Government take over all of their welfare programs. If this is to happen some day, it would be better to have someone in the Federal hierarchy with experience.

Mr. PASTORE. With reference to the 10 percent the State puts up if the Corporation is created, who spends that 10 percent, the Corporation or the State?

Mr. LONG. The State pays the Child Care Corporation. The Corporation then proceeds to pay whoever they contract with to provide child care. That could be a publicly owned corporation, it could be a nonprofit corporation, it simply could be a woman who makes her home available for child care, or it could be provided in a facility run directly by the Corporation.

Mr. PASTORE. I realize that but, in fact, are we not saying to the States that they have to put up 10 percent, but how that 10 percent will be spent will be decided by the corporation that is created in Washington?

Mr. LONG. There is no requirement whatever that the State utilize the services of the Corporation. The State will be given 90 percent Federal matching for child care, and will have to put up 10 percent, but they would not be required to spend any of this money through the Corporation.

Mr. PASTORE. They would be on their own?

Mr. LONG. Yes. It is the same as if an individual wanted to build a house with FHA. They are there to help him with financing if he would like for them to do it. The same is true with respect to the services of the Corporation.

Mr. PASTORE. They would still get the 90 percent?

Mr. LONG. Yes; whether or not they used the Corporation, they would have the same Federal matching for child care.

But I want to stress that, as essential as it is to provide the additional money, it is equally necessary to provide an organization that is competent and qualified to do the job.

I was presented on the floor today with a letter which indicated Mr. Elliot Richardson does not support the committee amendment. That is something which I could have been made aware of earlier, since when we discussed this matter in executive session, the Department took the position that if Congress wants to provide for child care this way, that is acceptable to HEW.

The fact is that now, with the responsibility resting with Mr. Richardson, we cannot get the job done. I certainly think we would do well to put the responsibility definitely on a particular organization that is doing nothing but providing child care. What we are trying to do is to remedy this one big lack, the lack of adequate child care for mothers who want to work.

I want to point out that it is not intended that the use of the Corporation be limited to people who are receiving welfare assistance. It is intended that any mother who is working would have child care available to her through the Corporation, child care which would meet reasonable standards and would be safe and adequate for the children. Instead of less than 10 percent of the children needing child care receiving that care in facilities which meets some kind of standards, we would reverse that and try to see to it that 90 percent, or hopefully 100 percent, would have available to them some kind of child care that would be appropriate and would meet specified standards.

Mr. BAYH. Mr. President, will the Senator permit me to direct one question to him on, I think, a relatively insignificant point, but I think in the colloquy with the Senator from Rhode Island the Senator from Louisiana pointed out that, in his judgment, a woman could make available a home for this type of service. I notice on page 432, in subsection (13), it says "other than home child care facilities." Is that inconsistent with the answer of the Senator from Louisiana or is that in another part of the bill?

Mr. LONG. That provision only says that if something is to be built, construction money would not be spent remodeling somebody's home.

Mr. BAYH. One of the basic problems is that there are too many hellholes in the basement with perhaps some "wino" serving as the principal jailer during the daytime while a number of welfare mothers are out working. I am certain this is the type of thing the Senator from Louisiana wants to keep from happening.

Mr. LONG. Let me satisfy the Senator on that, if I can. All this provision says is that if the Federal Child Care Corporation is going to spend its construction money to build facilities, it will not spend that money just remodeling somebody's private home.

There could be a situation where day care in a private home would be adequate, However, I invite the Senator to carefully scrutinize the provisions of the bill that describe the space that must be made available and also the fire standards that must be met, and the space, outside as well as inside, that must be provided.

The Senator will see that while these may not be as high standards as some would advocate—and they could be upgraded later—at the same time these standards will provide for adequate child care.

The facilities would have to meet the Life Safety Code of the National Fire Protection Association. At the present time in ghetto areas, as well as elsewhere, facilities for child care often cannot be found. Yet there are good, solid church buildings, where Sunday school for children is conducted. There are gymnasiums, and other places, which may be satisfactory. We say that if those meet the safety standards we would expect of a public building, why should they not meet the standards for a child-care center? This feature of the committee bill was an attempt to get around archaic building codes which hamper efforts to expand child-care services.

We say that, as a Federal standard, if the facility meets the life safety code of the National Fire Protection Association, it is safe enough for a child-care center.

Mr. BAYH. I thank the Senator from Louisiana.

In the time I have had available during the past few days, I have tried to scrutinize the provisions of his measure. There are many things about it that, frankly, recommend themselves to the Senator from Indiana. That is why from the beginning I have tried to compliment the Senator for his interest and concern.

I think one of the positive contributions relating to what has just now been described is with respect to the problem of standards. We find at one end a total lack of standards, horrible, utterly inde-

scribable, of conditions that exist in some areas. The Senator from Louisiana deals with that. At least, I think the provisions of the bill begin to deal with it. On the other hand, for one reason or other, there have been zoning or other standards that really are exclusive as far as construction and maintenance of reasonable facilities are concerned.

I think we need to recognize that one of the basic problems we have today, as far as child care is concerned, is not that we have insensitive, unqualified bureaucrats or political spoilers at the top of the system. I have yet to hear one word in derogation directed at the qualifications of the present director of the Office of Child Development. This man is extremely qualified.

Therefore I do not think it is necessary to set up a competing organization, whether we call it corporation or anything else, but rather maximize the capacity that we do have of the people in government concerned with child care. We have them fettered with regulations, and, most specifically, we have them fettered with lack of adequate funds. I do not care whether it is on the farm or in suburbia, if we provide adequate funding, the parents of a given community are going to provide adequate child care for their children.

We had the opportunity of discussing this with some of the officials of West 80th Street Day Care Center of New York City, which is a classic example of a community-controlled child care center. So this can be done if we provide the resources.

I am concerned that by setting up a competing corporation, we are creating conflicting programs and dissipating all too limited resources.

As I said earlier, I think the Senator from Louisiana is to be complimented for the flexibility he brings to this program. His thoughtful efforts and parts of this bill could be exactly what we need.

But let us give this the real, extensive investigation it merits, and come up with a comprehensive program to deal with all of the intricate aspects of adequate child development, not just adequate custodial care.

I point out that although the Senator from Louisiana points to his frustration as far as the JOBS program is concerned, and the Senator from Indiana shares his frustration, I think we can make a different case than if we are talking about job-related child care programs only. If we are talking about the political muscle in this country, development of public opinion that can be harnessed to support a child development program in a JOBS type program such as that vetoed by the President, the only people who are really affected are the unemployed or the unemployable. That is not a very viable political lobby and bloc. But if we are talking about a child development program available to all children in this country, I suggest that whether it is the President, a Senator, or a State legislator, that type of interest group throughout this country is all inclusive, is a very broad political bloc, and would perhaps convince the President that it would be unwise to veto legislation designed to deal with this significant problem.

I hope, Mr. President, with all due respect to the Senator from Louisiana, that we can support the amendment of the Senator from Oklahoma and the Senator from New York, not at all as inconsiderate opposition to the Senator from Louisiana, but as a recognition of the fact that this is an insufficiently studied, yet well-intentioned effort, to deal with a very complicated long-range problem. We should come back here next year, have a full set of hearings, study all the nuances of the problem, and with the advice, counsel, and help of the very prestigious and helpful Senator from Louisiana, come to this floor with a comprehensive program that, once and for all, considers all children in this country as individuals, not as poor children or middle income children, but as children. In my judgment, if we provide the comprehensive program that is necessary, we will do more to deal with the complicated problems that confront our society than by anything else the Senator from Indiana is aware of.

In closing, I am reminded of a quote from a television preview of the recent White House Conference on Children in which I was pleased to attend and participate:

> Children are above all individuals who have a claim on the future, a right to exist. They must know they belong to a society that cherishes that existence.

Mr. JAVITS. Mr. President, I regret that I have been unable to attend upon the Senate until now, but I wish to state for the RECORD the fact that I had a longstanding engagement to do a television tape in New York, and I made the round trip notwithstanding that I left here at almost 2 a.m. this morning, and have since been discussing with my colleagues in the Republican conference what ought to be our position on this matter.

Mr. President, I am able to say authoritatively—and a copy of the letter is on every Senator's desk—that the Secretary of Health, Education, and Welfare believes that this particular provision should be stricken from this bill. I ask unanimous consent that the letter from Secretary Elliot Richardson to that effect be printed in the RECORD at this point.

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

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C.

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

DEAR SENATOR JAVITS: I very much appreciate your inquiry as to the views of this Department regarding the amendment you have co-sponsored with Senator Harris to strike Title XXI authority in H.R. 17550 to establish a Federal Child Care Corporation. This title is, as you know, almost identical to S. 4101 which was introduced by Senator Long on July 20, 1970.

The Administration, as you well know, is committed to improving the quality of life for children in the United States, especially the vitally important first five years during which so much of a child's cognitive abilities is developed. To consolidate the effort within the Department, the President has established the Office of Child Development and appointed Dr. Edward Zigler, formerly a professor at Yale University, as its Director.

The Administration agrees with the purposes of this amendment, but does not favor enactment of this title at this time. We think that insufficient time has passed to enable OCD and the other offices with which it works to prove their worth and effectiveness before a new government corporation is formed to meet the needs of the nation for child care services. We also call attention to the very important child care component of the Family Assistance Plan which will receive early consideration by the 92d Congress. We do not believe that this corporation would be the most effective way to handle that program when it becomes law.

It would create a new unit in the Executive Branch, independent of the other Departments and agencies, with branch offices in each major urban area and other areas as deemed necessary. To the extent that the corporation would constitute a mechanism for bringing the fee-paying non-poor family together with a private child care facility, there arises the real question of whether the cost of the administrative overhead for such service is necessary or desirable.

To the extent that it would bring the child in receipt of services under another Federal program in contact with a child care facility, the question arises of whether it is necessary to have this separate and additional machinery to accomplish that purpose. In summary, the establishment of an independent corporation to provide child care services appears to be unnecessarily duplicative and costly.

Related to this problem of the independent new agency is another basic point. At the present time, there is lodged within the Department of Health, Education, and Welfare, extensive responsibility for child development and child care. To assure coordination between all the Federal sources of day care funding, and to assure access to the technical expertise of the Department in this area, as well as related services, such as health and education, any new authority for the development and provision of child care services should, in our opinion, be lodged in our Department.

We are also aware of other day care-child development legislation which has been introduced by you and others in both the House and Senate. The Administration is currently studying these proposals and thinks that more complete hearings and study are necessary before the Congress enacts the Federal Child Care Corporation or other related legislation.

We appreciate your cooperation and look forward to continuing to work closely with you in the future.

With best wishes for a happy holiday season, I remain,

Sincerely,

ELLIOT L. RICHARDSON,
Secretary.

Mr. JAVITS. The key sentence, Mr. President, with respect to this matter, is the following:

> The Administration agrees with the purpose of this amendment, but does not favor enactment of this title at this time. We think that insufficient time has passed to enable OCD and the other offices with which it works to prove their worth and effectivenesss before a new government corporation is formed to meet the needs of the nation for child care services. We also call attention to the very important child care component of the Family Assistance Plan which will receive early consideration by the 92d Congress. We do not believe that this corporation would be the most effective way to handle that program when it becomes law.

Mr. President, to summarize my views:

First, I agree with the Secretary of Health, Education, and Welfare that we should not abort the child care provisions of the family assistance plan, which we have not even considered, before we consider it, by prejudging what shall be the administrative apparatus that will be used for the purpose.

Second, Mr. President, we are asked by the sponsors of the proposed Federal Child Care Corporation to come to a conclusion which I think would be most prejudicial to our further consideration of that matter, and that is to centralize Federal responsibility in this corporation.

I point out the fact that that is exactly what is contemplated, because, in the committee report, at page 335, we have the following statement justifying this particular corporation:

> It is the committee's view that we need a new mechanism in facing this problem, a single organization which has both the responsibility and the capability of meeting this Nation's child care needs. It must be an organization which has the welfare of families and children at the forefront, an organization which, though national in scope will be able to respond to individual needs and desires on the local level. It must be an organization which will be able both to make use of the child care resources which now exist and to promote the creation of new resources. It must be able to utilize the efforts of governmental agencies, private voluntary organizations, and private enterprise.
>
> The new Federal Child Care Corporation, which would be created under the committee bill is intended to be such an organization.

Now, Mr. President, if ever I saw an example of putting the cart before the horse, it is in that situation. We are asked to legislate a fixed form of organization, with specific capital, specific authority, and specific criteria for its operation, before we have even decided what should be the fundamental objective which we wish to achieve with respect to child care in this country.

There are four basic alternatives, and this corporation proposal would have us choose one now, even before we decide what shall be our basic plan that we wish to carry out.

The other alternatives are as follows:

First, a State plan with Federal administration. That is, incidentally, contemplated by a very exhaustive bill introduced in the House of Representatives by Representative BRADEMAS with the sponsorship of a number of Members. That is known as Comprehensive Preschool Education and Child Day Care Act of 1969.

Second, there is a State plan with State administration, and that is the plan contemplated by a measure introduced, again in the other body, by Representative DELLENBACK of Minnesota, and, in this body by the Senator from Vermont (Mr. PROUTY).

Finally, Mr. President, there are various aspects of the community plan, which really is based upon working from the grass roots upward, and that plan is contained in my own bill, which I introduced just about a month ago. It is also contained in the bill of the distinguished present occupant of the chair (Mr. MONDALE), his bill being known as the Head Start Child Development Act of 1969, and the bill introduced by the Senator from Indiana (Mr. BAYH), known as the Universal Child Care and Development Act of 1971.

So there are four basic plans: community, State plan with Federal administration, State plan with State administration, and the Federal Child Care Corporation, the plan of Senator LONG.

We also ought to take a look at the orders of magnitude here. Senator LONG's corporation, which he says would be a single organization with both the responsibility and the capability of meeting this Nation's child care needs—this single organization, supposedly, to deal with all the needs for child care, is to have a $50 million capital, and, when it gets rolling, it is to have the ability or the authority to issue $250 million in revenue bonds, not guaranteed by the United States but dependent for their validity as bonds upon income which would be earned by day care centers and that is all.

Mr. President, juxtapose those financial vertebras to the need and to the actuality. Right now, we are spending in round figures about $450 million a year for day care. And, Mr. President, under any of these bills one may choose, and even the contemplation of the administration itself, faces a very material increase. We all hope that much of that will be self-financing, but nevertheless, we are dealing with an order of magnitude which makes the financial base of this corporation either completely inadequate to the purpose to be served, or an effort to so materially reduce the whole size of the day care operation in the country as to absolutely defeat any plan—such as one which ties in the day care to a very critical reform of welfare or the White House Conference's plan or any of our plans in Congress—all of them are much broader in scope than would be contemplated by this corporation. So all this corporation would do is try to fit a big foot into a very small shoe. When that is added to the fact that it would abort our consideration of the President's family assistance plan and that it would commit us to one course of administration when we have an aggregate of four before we even know what our plan is going to be about child care, it seems to me to be highly improvident.

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

Mr. JAVITS I yield.

Mr. PERCY. Before making a comment on the motion to strike, I should like to repeat what I said to the Senate Finance Committee when I testified before that committee on behalf of day care centers and certain proposed legislation that I had introduced to provide for their construction.

I believe that the Senator from Louisiana (Mr. LONG), the chairman of the committee, is devoted to finding an answer to the day care problem, and I commend him for his initiative. I intend to keep a deep and a continuing interest in methods of solving the problem of child care. I believe it is one of the most critical problems we are going to have to face in the near future. However, despite this interest and despite the fact that I have introduced a measure in this area as it relates to the President's family assistance plan, I wish to support the motion to strike this section from the pending bill.

Mr. President, my prime reason for adopting this position lies in the fact that I believe that the proposal contained in the bill has resulted from less consideration than the problem deserves. The committee included the proposal in the bill without benefit of the recommendations of the White House Conference on Children and, in fact, without benefit of any specific hearings whatsoever.

As a result, there was no opportunity to explore the proposals on this subject made by other Senators, including those of the distinguished Senator from New York (Mr. JAVITS), who has given a tremendous amount of attention to this field and is extremely knowledgeable in it. I believe his proposed legislation should be given every possible consideration, because my own initial reaction to it is that it is a basic thrust in the right direction and goes to the heart of the problem. Also, as has been mentioned, the Senator from Minnesota (Mr. MONDALE) and the Senator from Indiana (Mr. BAYH) have made proposals that have not been considered thoroughly.

There was no opportunity to consider the question of how deeply an individual community should be involved in planning to meet the community's child care needs. There was no real opportunity to adequately consider the adequacy of the structure of the Corporation, including the relationship between the Corporation and the Office of Child Development and the Office of Economic Opportunity. Finally, there was no opportunity to consider the adequacy of the level of authorization contained in the bill.

I should like to ask the distinguished Senator from New York, from his vast experience in establishing enterprises of this type, whether, rather than coming from the top down, projects involving the people, a community do not come out better when they come from the community up.

Mr. JAVITS. There is no question about that. I should like to make two points in that regard.

One is that we are not even arguing for that. We are saying, yes, we feel that projects should come from the ground up. We are not asking the Senate to accept that now. But we are also asking the Senate not to foreclose it by taking a project which proceeds from the top down.

I should like to ask the Senator this question, because he has the city of Chicago in his State, and the Senator knows I have New York: What does the Senator think will be the reception of the Federal Child Care Corporation when it comes into one of the Chicago ghettos to set up day care centers? Are we going to have a new set of militants who are going to ride them out on a rail or throw them out or picket their projects or refuse to participate in them or burn them down, or are we going to do something constructive in day care?

Mr. PERCY. I think we would be ill advised to go ahead and establish this corporation until we actually know more than we do now. I really cannot tell the Senator what the reaction of the leadership of the various ghetto areas in Chicago would be. I would feel much better if they had been able to come down and testify, the leadership, for instance, of a community of some million blacks, who really have a deep concern about this problem, and the leadership of other concerned communities, and have them feel that they have had a voice in the making of this vital legislation.

It is better that these programs come from the community up and give residents a sense of participation, rather than just establish a superstructure setup from Washington, have a corporation established, without the benefit that we could gain from participation in what should be adequate hearings. I would tend to think that we should have these hearings as early as possible next year. It ought to be one of the earliest orders of business, and it fits together well with the early consideration that has been promised on the family assistance plan.

Mr. JAVITS. I thoroughly agree with the Senator.

I am not trying to prejudge it, either. I have an idea. I prefer the community approach, but there may be many bugs in that. Hence, I think the only fair way to do it is to start with an effort to design really a child care program. We may very well end up with the idea of a corporation. But to abort all our considerations by opting for that now seems to me to be most improvident and ill advised.

I point out to the Senator that it is not less than absolutely obliterating all other ideas because the committee itself says that this is the single organization that is going to have the job of meeting of the Nation's child care needs in its hands. For example, on page 420:

> The corporation shall have the responsibility and authority to meet the Nation's needs for adequate child care services.

Mr. President, they may have the responsibility and authority, but they are not going to have the resources or the organization. So it seems to me to be a most improvident provision.

I do not think one need plead for my bill, which I like very much and many other people do, or for that of Senators MONDALE and BAYH, or PROUTY and Representatives BRADEMAS, DELLENBACK, and QUIE. One need not plead for any of those. All one has to do is to give them a chance to draw the breath of life, rather than to extinguish them now in this improvident way, before we are remotely ready.

I might say to the Senator from Illinois that it bears out what Senator HARRIS knew and what all of us knew—that we let this survive in the bill though it is of exactly the same gender as what we eliminated—trade and, to the dismay of many of us, the President's FAP—because we were just up against it. Here we are with the same kind of proposition, which we are asked to swallow the very moment that we have rejected a number of others of exactly the same kind because we just cannot give them the consideration we know they should have. I cannot think of legislating more improvidently than doing this.

As we all know from the colloquies which ensued when we considered the motion to recommit, this was something the chairman, Senator LONG, insisted on. We all respect him, and he certainly helped us to cut the Gordian knot on this bill. So we stood aside and are now arguing the same provision we should have argued on the motion to recommit.

I should like to add one other thing: The chairman remains the chairman of the Finance Committee; he will be the chairman of the Finance Committee next year. It seems to me that there is no insecurity in his position. He will be just as strong and just as effective and just as able to have his prestige count with his colleagues for the Federal Child Care Corporation next year as this year. So I do not think there is any derogation of the respect we owe to the chairman of the committee that is bringing out a bill. On the contrary, I think it would be inconsistent if we did not do our best to make the provision—if it is going to be the final choice of the Senate—at least be the best possible, after a consideration of alternatives, and after—as Senator PERCY has said—the opportunity for hundreds of thousands or millions of blacks who are very deeply involved, and the poor generally, to testify for or against this proposition, so that we will have some idea as to whether or not it will work.

Again I point out to Senators that for the same reasons we are discussing, the Secretary of Health, Education, and Welfare agrees that this is ill advised and wants very much to see it stricken from the bill.

Mr. PERCY. Mr. President, there is one further point I might make lest we leave the impression, in striking this particular section of the bill, we are saying that we are doing nothing about day care problems at this time.

There are certain provisions in the bill now which are unaffected by this motion to strike which will serve as temporary measures to deal with the problem until we can adequately explore the implications of the Child Care Corporation.

One of the major reasons for the failure of the work incentive program has been the absence of adequate day care facilities. The bill provides a temporary solution to this problem by increasing Federal participation in the financing of day care facilities from 75 to 90 percent. While this will not solve the problem, I believe that it will alleviate some aspects of the situation until, early in the next Congress, we have had an opportunity to adopt a comprehensive solution.

Thus, Mr. President, I shall vote for the amendment to strike. I hope that a majority of my colleagues will do so as well. I do so despite the urgency of the situation and despite my own deep interest and commitment to providing adequately for day care facilities. I do so, because I believe that in the long run, we shall make a better contribution to the solution of this most critical problem.

I share with many of my colleagues the feeling that some of the nongermane things we have stricken out of the social security bill the country will be better for. It would have been an utter disaster, for instance, for this country to have pushed ahead just for the sake of legislating and adopted a trade bill that would have set the country back 40 years in its policies.

There is the kernel of a good idea here, but we are not ready now to see it nurtured and come to growth until more work can be done on it. That work can be done in the 92d Congress.

I congratulate again and commend my colleague from New York for his distinguished leadership in this field and the expertise he brings to it. I know he offers this amendment in the belief that if the bill passes in its present form, the country will feel that we have solved the day care problem and that we have really thought through the answers, when we have not done so carefully enough.

Successful action on this motion to strike, I think, will give us the opportunity, early next year, to pursue this with the deliberate care it requires. That does not mean undue delay. It means that we can have action quickly, once we have full hearings.

Mr. JAVITS. I thank my colleague from Illinois very much. He has been most helpful.

Mr. COOK. Mr. President, will the Senator from Illinois kindly stay here for a moment? I should like to ask a question, if this is the kernel of a good idea, let us talk about financing it for a minute.

On page 434 of the bill, it states that the Corporation will receive $50 million, and starting in 1975 they must pay it back at the rate of $2 million a year. This is $2 million a year out of its revenues from day care centers. However, to borrow the $250 million from the public, it says on page 436 of the bill:

> Any such bonds may be secured by assets of the Corporation, including, but not limited to, fees, rentals, or other charges which the Corporation receives for the use of any facility for child care which the Corporation has an interest.

In order to borrow the $250 million, what kind of assets is it going to be able to build in the meantime?

It has a $50 million debt which it has to start paying back in 1975 at the rate of $2 million a year. It cannot borrow $250 million. It has to have $250 million worth of assets or more.

How is it ever really going to be able to accomplish that?

Mr. JAVITS. I would say, looking at it from the point of view of the chairman of the Finance Committee, that they would immediately have to go into the day care business for the relatively upper level, upper middle income families, in order to make the program viable financially. So, all our purposes here would be defeated at one fell swoop, because we are setting conditions which obviously they cannot meet, and still serve the clientele we want them to serve.

Mr. COOK. I thank the Senator.

Mr. JAVITS. I thank my colleague from Kentucky.

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

Mr. JAVITS. I yield.

Mr. MONDALE. The comments just made by the Senator from Kentucky are very useful. I had not realized what he stated. We have had hearings before the Employment, Manpower, and Poverty Subcommittee on this proposal, which I introduced along with about 20 others, which we call the Headstart Childhood Act of 1969. We heard from a number of nationally recognized early childhood specialists in the country. I am pleased to say that the President was wise in appointing one of our witnesses, Dr. Zigler, as the Director of the Office of Child Development. Dr. Zigler is recognized as one of the best experts in the field.

I came away from the hearings appalled by the way we treat our preschool children. I felt increasing concern that as the Nation moves in the direction of dealing with the problems of the first 5 years of life, particularly for the most disadvantaged, we make sure that we do so in the right way. A child—especially a young child—is a sensitive and highly destructible entity.

Middle-class American parents do everything they can for their children, with decent housing, the best nutrition and health assistance in the world, with all the love and affection they can provide, and when it is all over they hope and pray that, somehow, their children will make it. But, under this proposal, we would take a different approach. When a child in its early formative years, the emphasis is on letting the mother out of the house to work. In the interim we take the child—like a commodity—and stack him like cordwood in some day care center. To be sure, the day care center is supposed to achieve certain physical minimums. It it supposed to be fireproof. It is supposed to be warm. It is supposed to be clear and if the children are fed, it is supposed to be nutritious, and so forth. But nowhere in the proposal, in my opinion, is there any sensitivity shown toward the emotional or psychological problems which every decent parent knows is essential to the rearing of a healthy child.

If this Nation launches a program aimed toward letting mothers work and in the process simply salts thousands and thousands of children away in these cold and sterile custodial centers, I think we will be producing a generation of emotionally crippled children that will cause more trouble than anything we have seen in the past. I think we will regret having taken this well-motivated but, in my opinion, yet-to-be-perfected proposal.

In my opinion, the country is quickly coming to the conclusion that we need quality, healthy childhood programs for our children. It is the most exciting new theory for dealing with disadvantaged in America. In my opinion, most children who grow up in tragically disadvantaged circumstances are ruined by the time they even go to the first grade. They need sensitive child development efforts. But I think we should do it right. I do not believe this does do it right. I think the theory is wrong. I believe it can do more harm than good. I hope we will strike it and that the next Congress will really take hold of the issue and pass the kind of proposal that gives quality, total, child development assistance to the hundreds and thousands of disadvantaged children in this country who so desperately need it.

Mr. JAVITS. The Senator is 100-percent correct. I should like to point out the kind of services that can be provided—which is contained in section 2118 of this particular provision, on page 442 and on later pages. What the Senator is really talking about is custodial care.

Mr. MONDALE. The Senator is correct.

Mr. JAVITS. It is not developmental care, and that is one of the biggest issues in this field. Obviously when we are dealing with this corporation, and considering its restrictions, we see what must happen.

The corporation cannot even earn interest on the bonds, as the Senator from Kentucky (Mr. COOK) pointed out. The Senator from Kentucky pointed out to me privately—and I would like to say publicly—that the only investment it could make is in Government securities. It cannot even buy high interest bonds. It is confined to U.S. bonds.

It is this money and money earned from day care centers that will give them earnings and enable them to pay back the basic investment of $50 million, at $2 million a year. This is not even a Government bond.

The whole thing becomes a business operation other than the kind we want.

As always happens in debates of this character, it is unnecessary to extend the argument that far. The fact is that in this case what we are arguing for is that we withhold our action, rather than that we take action.

While we speak with admiration and respect for the idea—because I am devoted myself to original ideas—and this is an original idea—I certainly am not devoted to such ideas until after they have been tested out in some fashion, even if it is only in debate.

We should deal with the bugs in the program, some of which have been pointed out in the debate today, especially when we will be aborting another approach to the same problem.

The PRESIDING OFFICER (Mr. CASE). Will the Senator suspend? There are conversations going on all over the Chamber.

The Senator may proceed.

Mr. JAVITS. Mr. President, I have named four purposes. I would like to recapitulate them.

First, there is the community approach, which we are following now in our appropriations for the OEO, used for child care. That is the Office of Economic Opportunity. There is also the approach of State plans with Federal administration, the approach of State plans with State administration, and, finally, the fourth alternative, the Federal Child Care Corporation.

Mr. President, I would like to conclude my observations on this matter by again referring to the opposition to this particular plan at this time. All the Secretary of Health, Education, and Welfare indicates is not that he wishes to knock it down, but that he feels that we would be preempting the field at a time when the field should not be preempted.

Mr. President, I would like again to read a statement from the letter that I read before. Many of the Senators were not here at the time I did this before.

The key portion in the Secretary's letter which was received this morning reads as follows:

> The Administration agrees with the purposes of this amendment, but does not favor enactment of this title at this time. We think that insufficient time has passed to enable CCD and the other offices with which it works to prove their worth and effectiveness before a new government corporation is formed to meet the needs of the nation for child care services. We also call attention to the very important child care component of the Family Assistance Plan which will receive early consideration by the 92d Congress. We do not believe that this corporation would be the most effective way to handle that program when it becomes law.

That is the case as I see it for the amendment. I hope very much that the Senate will agree to the amendment and for the present—that is all we ask—strike this particular title from the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, I would like to ask if we might agree to a limitation on debate so that we could vote at some time certain on this amendment.

I ask unanimous consent that the Senate vote on this matter in 20 minutes, the time to be equally divided between the opponents and the proponents of the amendment.

Mr. HARRIS. That is satisfactory with me.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none and it is so ordered.

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

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask unanimous consent that there be a brief quorum call and that the time be taken equally from both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none and 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.

Mr. HARRIS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. HARRIS. Mr. President, mention was made earlier in the debate concerning the position of the National Association for Black Child Development and the lack of approval by that organization of this child care provision as it is presently written.

I have here a position paper on the Federal Child Care Corporation provision prepared by the National Association for Black Child Development. I

ask unanimous consent that it be printed at this point in the RECORD.

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

POSITION PAPER—FEDERAL CHILD CARE CORPORATION ACT S. 4101—AN AMENDMENT TO THE FAMILY ASSISTANCE PLAN

While the basic purposes of the bill are valid, there are a number of significant objections which make it impossible for the National Association for Black Child Development to support it:

THE STRUCTURE

Sec. 2002 (a) The creation of a nationally lodged vehicle is a logical step in attempting to provide comprehensive child care in this nation. However, such a mechanism must be designed within the context of the recipients for the proposed child care services. Since Senator Long's Act is to be an Amendment to the Family Assistance Act, Child Care Provision Section, the initial child care services offered by the proposed Corporation will be aimed at the Black and poor citizenry of this nation. This is clearly stated in *Sec. 2003.(c)* . . . The Corporation shall accord first priority to the needs for child care services of families on behalf of whom child care services will be paid in whole or in part from funds appropriated to carry out Title IV . . . This has strong implications for controlling contracts under FAP.

Our position on the kind of mechanism we view as being most beneficial has been stated in a position statement entitled *Optimum Conditions for Minority Involvement in Quality Child Development Programming, p. 12, Sec. 4(a)* . . . The Federal government should administer funds for day care projects with minimal state involvement. Providing the Office of Child Development can be sensitized to minority concerns, *it should be the administrative agency.* Provisions must be made for technical assistance to communities preferably by minority firms in advance of actual funding.

The Corporate structure described in the Federal Child Care Corporation Act is similar in many ways to existing agencies which are controlled by persons appointed outside of the Black community. Such persons set policy and develop programs for the Black community residents. *This model has a poor track record.* The act advocates a proposed monopoly for child care services.

The proposed Corporation is basically a compromise child care plan modeled after large profit-making corporations. The Corporation will monitor itself, establish its own codes, standards and regulations. These standards will bypass and supersede federal, state, regional and local requirements as outlined in *Sec. 2006 "Exclusiveness of Federal Standards."* This section should be reviewed in terms of ratios of adults to children as outlined in *"Standards for Child Care," Section 2004(b), (1), (A), (B)* in order to assess its implications. Whereas, optimum ratio (Child-Adult) suggested is 8 to 1, the Corporate Board can authorize a 25 to 1 ratio which clearly speaks to custodial care. Further, such a ratio is very similar to those that have been proposed by Franchisers whose aim is profit-making, and promotes custodial care, instead of quality child care and child development.

The Corporation, as presently being proposed, is monopoly focusing on child care needs in this country. It will receive its initial funding *because* of the Family Assistance Act which is designed for the poor. As it is presently set forth, the Federal Child Care Corporation Act will preclude self-determination and the fundamental rights of Black, poor and minority groups to adequately participate in making policy and plans as *they* determine their child care needs.

THE BOARD

Basically the Board is composed of those who will represent the current administration. If persons on the Board do not comply they will undoubtedly be removed by the President. *All powers* rests with this Board. They will appoint the Advisory Council. They will appoint personnel. They are empowered to collect fees directly or through contractual arrangements. It becomes apparent that the Board will probably have subsidiaries—which again speaks to contracting with national franchisers.

FUNDING

The proposed Act calls for a Revolving Fund, *Sec. 2003.(a)* which will be established by the Treasury. The amount proposed, 50 million dollars, will be paid back in annual installments of 2 million dollars. The Corporation will pay interest on this loan, on the basis of a rate equal to the average rate of the Treasury's loan. If the Corporate funds are in excess, the Corporation will invest money in various ventures related to child care. In other words, they will plow profit back into the Corporation to create subsidiaries in other program and service areas in child care.

This funding process, as called for in Senator Long's Act initially takes tax monies to *loan* the Corporation. Further, this Corporation will issue Bonds, which the government will not be responsible for, which are sold to the people, similar to war bonds, costing the taxpayer the cost of the loan and capital for it to operate autonomously. Thus, the Corporation will be selling services for operating costs.

This Bill as proposed is basically a thrust toward selling the concept of developing social services as a private sector function, and removing the responsibility from the government in this area. Most appalling is the profit-making dimension which is being initiated on the backs of the poor and Black people in this country, by attaching this Act to the Family Assistance Act.

Components of the bill that are objectionable:

(1) Lack of appropriate representation on the Corporate Board and Advisory Council of Black and other minority people;

(2) Lack of assurance of *quality programs* vis a vis the proposed ratios as outlined in the Act;

(3) Lack of a certification process for individuals who have demonstrated ability in the care of children in the various proposed child care programs;

(4) Lack of an objective evaluation process of the proposed Corporate Board. The Act does not reflect a process of accountability, as exemplified in the revolving fund concept; and the reporting procedure to Congress every two years. It appears that the Advisory Council who have been appointed by the Corporate Board will be the evaluative mechanism. This suggests a self-evaluation process, to which we are opposed;

(5) Black and minority group firms will find it difficult to receive contracts for providing Technical Assistance to the child care programs because of the growing competition by big business and franchisers in this area; and

(6) The possibility that the proposed Corporation will perpetuate custodial programs is glowing due to the lack of specific program criteria. There is no mentioning in the present Act of the ages of children and the different ratios of adults in relationship to this factor.

Mr. HARRIS. Mr. President, reference was also made earlier to the Child Welfare League. I have here comments on the Federal Child Care Corporation provisions prepared by the Child Welfare League. I call attention to excerpts from those comments in which it was said, for example:

In fact, the many implications of S. 4101 are so far reaching and of such importance that we believe there needs to be a very careful examination and analysis of the impact of the bill's provisions by this Committee and by a wide variety of Government and public witnesses. Assessment of S. 4101, alone, might well require many weeks. Because of the press of business already before this Committee, we respectfully suggest that substantive discussion of this important legislation take place within the context of full Committee hearings, arranged solely for this purpose at some later date. The League would be pleased to assist the Committee in any possible way to prepare for these hearings. We offer the Committee the use of our resources and pledge our cooperation.

I certainly support that statement.

Mr. President, I ask unanimous consent to have printed in the RECORD other excerpts from these comments made by the Child Welfare League.

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

There have been several other bills introduced in both the House and the Senate dealing with various kinds of children's services, including "Head Start" type programs, child development services, early childhood education and day care. A common feature has been a concern for the children of mothers who work or are in training. An examination of these bills. along with S. 4101, presents several issues to which we believe this Committee should address itself.

What types of programs should be authorized by legislation affecting young children?

Can and should the so-called "day care needs" of children be considered separately from the educational and developmental needs, or should these programs be combined?

Are the programs needed for the children of working mothers and guardians essentially different from those required for children from disadvantaged and so-called "culturally-deprived families?

What are the essential ingredients of any child care program if it is to provide adequately for a child's developmental and educational needs, particularly when the mother is employed and absent from the home?

We believe that the Committee should consider the following questions before concluding that consolidation in a new, quasi-governmental body such as the Federal Child Care Corporation is advisable.

Is it advisable to give authority over all child care services to any one agency—whether that agency is governmental, like the Office of Child Development, or quasi-governmental, like the proposed Federal Child Care Corporation?

Is it possible to utilize the administrative skill and the trained personnel at various levels within the government agencies to design programs and deliver programs through through an existing government agency?

Several Commissions have recommended fuller utilization of Head Start programs so that they could also serve as full-time day care facilities. Is it desirable to have one agency, such as the relatively new Office of Child Development, administer the large Head Start program, and establish another Federal agency to administer all other child care services?

HEW has had virtually no funding to finance remodeling, or construction of new child care facilities. Does this factor make it difficult to assess the Department's ability to assume the responsibility of meeting the Nation's needs for adequate child care services?

What would be the relationship between the Office of Child Development, with its highly-trained and skilled Director, and the Federal Child Care Corporation?

Skilled, capable personnel in the field of child development, special work, psychology, and education are in very short supply. But some of these scarce and skilled professionals capable of administering and developing the standards necessary for such * * *.

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

Mr. HARRIS. Mr. President, I yield 2 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Mr. President, I would like to direct these remarks to the distinguished Senator from Louisiana because, for the life of me, I cannot figure out how financially this Corporation will be able to come into existence. If it borrows its maximum of $250 million, floats a non-Government-guaranteed bond, and if they are fortunate enough on that basis to sell a public bond at 7 percent interest the first year alone would be $17.5 million. If they floated the bonds for 25 years, it is conceivable their first principal payment in the first year would be $10 million. Then they have an automatic payback of their $50 million beginning in 1975 of $2 million a year. That means that the first year of its first full borrowing capacity, with the $300 million Corporation, as far as its assets are concerned, it has to earn over and above its expenses and pay back to the Treasury, and pay interest to bondholders, to the tune of $29.5 million.

I am not sure I know of a major private corporation in the United States capitalized at $300 million after all expenses that could conceivably pay back $29.5 million in any one year. I am wondering financially how this Corporation can even come into existence with the first payout load of $29.5 million. If anyone can answer that question for me, I would appreciate it, but it is a matter of figuring interest on $250 million, plus the principal payment, plus the fact that starting in 1975, they have to pay back $2 million on the $50 million of capitalization.

Mr. LONG. Mr. President, we are talking about only $50 million, because the remainder of that money does not become available until after 2 years, when bonds could be issued for construction purposes. This Corporation would begin its operations with the $50 million loan. For all services provided it would be paid fees, whether from the parents or from the welfare agency.

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

Mr. HARRIS. I yield 1 minute to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. COOK. Is the Senator saying in essence the Federal Government is going to pay to the Corporation on nonguaranteed bonds the full extent of the private market interest rather than have them guaranteed by the Federal Government, because you also provide to go on the open market and sell these at the highest rate, that the funds of the Corporation, and I refer to section (b) on page 433: "shall not be invested in any obligation or security other than obligations of the United States or obligations the principal and interest on which are guaranteed by the United States."

Mr. LONG. Mr. President, I wish to call to the attention of the Senator that the Corporation is not trying to make money through investment. This provision simply states that, if they have extra money, they could invest it in Government obligations on an interim basis so they would be earning money on it.

Mr. COOK. Mr. President, will the Senator from Oklahoma yield further?

Mr. HARRIS. I yield 1 additional minute to the Senator from Kentucky.

Mr. COOK. I have listened with a great deal of interest to what the Senator said. If money is borrowed on the open market, it has to be paid back.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator from Oklahoma yield further?

Mr. HARRIS. No; I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the Corporation initially borrows up to $50 million from the Treasury. That is for initial operating capital. But once it is in operation it charges for the services it is providing, and the fees are paid either by the parents or, if they are needy, by the welfare agency. After its first 2 years of operation, the Corporation is authorized to borrow $50 million annually for up to 5 years for construction of facilities. Here, too, the Corporation will charge for services provided in the facilities it constructs.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. LONG. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. LONG. Mr. President, one of the great crying needs in this entire child welfare area is the need for adequate child care for children of working mothers. There are two major problems involved. One problem is that the States need fiscal help. We took care of that by liberalizing the matching formula. No one complains about that. Second we need to have someone who has the ability and will to provide child care services. Most State welfare agencies are, apparently, not well equipped to do this now, and this is evidenced by the fact they are not now using even half of the Federal funds we have made available.

How do we handle this problem? We set up a Federal Child Care Corporation, start it out with a $50 million loan from the Treasury for initial operating capital, and then have the Corporation make child care services to as many mothers as possible who would like to have child care provided.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator yield himself additional time?

Mr. LONG. Not at this time.

The PRESIDING OFFICER. Who yields time?

Mr. HARRIS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized for 2 minutes.

Mr. HARRIS. Mr. President, I ask unanimous consent that a memorandum in support of this amendment be printed in the RECORD at this time.

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

MEMO IN SUPPORT OF HARRIS-JAVITS-MONDALE AMENDMENT TO STRIKE THE FEDERAL CHILD CARE CORPORATION PROVISIONS FROM H.R. 17550

1. There have been inadequate hearings on this far-reaching piece of legislation and insufficient effort to coordinate it with other Federal programs which touch on day care services. Many parts of this provision could be improved by thoughtful amendment, but there is simply not time to handle this whole matter at this late date in the session.

2. The whole question of child care will come up again anyway early in the next session in connection with welfare reform. There is no need to rush into this major new program right now.

3. There is a great need to expand child care services, but two fundamental requirements should be parental involvement and community control. These requirements are not properly safeguarded in the provision sought to be stricken.

4. Standards set up by the bill are inadequate in regard to child-staff ratios, staff qualifications, facility standards (this bill would supersede state and local standards) and, most importantly, in regard to child development concepts.

Mr. HARRIS. Mr. President, I yield the remainder of my time to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I think the case has been made adequately. It comes down to the fact that we are aborting all other plans and opting for a plan that is much too small for the situation and a plan that is not financially viable. I believe the Senator from Kentucky (Mr. COOK) put his finger on the problem in noting that a corporation with $300 million to operate, and with this kind of income from welfare agencies it cannot be financially viable. Hence it will have trouble selling bonds. We will put ourselves in a box.

Let us not abort other plans and improvidently opt for a plan which has not been designed or developed to meet the situation because we will not know the plan for child care for the country until we finally deal with FAP.

For all those reasons I believe that the amendment is an appropriate vehicle for the Senate to get out of the situation which we face here, in addition to the other difficulties we have gotten into. There has been inadequate inquiry into this matter and there are many flaws in the proposal. It aborts the situation long before we are ready for it and coming at this time in this session it is most improvident.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. RIBICOFF. Mr. President, throughout the consideration of this bill

I have found myself in sharp disagreement with the chairman of my committee over certain provisions. But that does not mean every position he advances is wrong. In this instance the Senator from Louisiana has a good idea and it has my support.

We must realize that in this country we have need for day-care facilities for some 7 million children. We only have facilities in this country for some 700,000 children. Consequently, throughout this Nation, in small towns and big cities, we are unsuccessful in many of our social programs because there are insufficient facilities to assist mothers with young children.

The WIN program, the work incentive program, adopted in the Senate in fiscal 1969, appropriated $25 million and has used only $4 million. In 1970, we appropriated $52 million and used only $18 million.

The reason why such small percentages were used was due to lack of facilities in the United States to take care of the children involved. What has been proposed here is not an exclusive program; and here is where I think the Senator from Oklahoma and the Senator from New York misread the purpose of the particular Corporation sought to be brought into existence. In the family assistance plan, which failed, there was provision for some $386 million for day care. In this bill there is some $250 million for day care.

That does not mean the proposals the Senators from Indiana or New York or Oklahoma have in mind would be immediately put out of existence because of the proposal. What the Senator from Louisiana is saying in this bill is this: We have been unsuccessful over the past decades in providing day-care centers. The old methods just are not working and we must find a mechanism that is right for today, and not a mechanism that has failed in the past.

What we are saying is that the Federal Corporation would be the coordinating corporation to supply inservice training and day-care facilities involving diversity and imagination. In some areas a church could be used. In some areas a school could be used. In some areas an apartment house could be used. In some areas an existing day-care center could be used. In other areas of the country where there are no day-care facilities, it might become necessary to build such facilities. So there is a great variety.

The Senator from Louisiana is bringing forth a new concept where the old concepts have failed. Unfortunately, the bureaucracy that exists through American life is just as strong in the entire social welfare field and there is a reluctance to try out new concepts and new ideas.

The ideas that are advanced by the Senator from Louisiana deserve our attention and cooperation. Three men will be appointed by the President of the United States with the advice and consent of the Senate to run the Corporation. It will have an advisory committee to advise the Directors.

The bill would permit the Child Care Corporation to make available a wide variety of child-care services where they are not available today. Such services would include educational, recreational, and home-care services.

No welfare agency, no community, no individual has any obligation to use the facilities supplied by the Federal Corporation. They can use any facilities in existence or to come into existence. This is not mandatory. It just is a mechanism to allow day care to become a reality. The goal of the Corporation is to arrange to make child care services available where they are needed. Its first priority will be to provide service to welfare recipients who need child care to undertake employment.

I have been intimately connected for many years with this great movement, and there is no group more dedicated to the improvement of social service laws than those in the day-care-center movement. Yet they have had great difficulty getting the movement off the ground, and, consequently, we find ourselves as a nation with only 10 percent of our needs being provided.

I commend the Senator from Louisiana for realizing that there is a new method, a new concept, to take care of the problems of tomorrow. I would hope the Senate would give attention to a new idea and recognize that his proposal is worth trying because past methods and past ideas have failed.

In addition, Mr. President, two other specific provisions of the pending social security legislation, H.R. 17550, deserve special consideration and support by the Senate.

Since the original medicare program was enacted in 1965, over 20 million Americans have been enrolled and are eligible for its benefits. However, many Americans have not been permitted to share in this program. In particular, public employees in a number of States, including Connecticut, are not eligible for medicare because they have not been part of the national social security program.

Several years ago, I introduced legislation to permit these employees to enroll in medicare. I introduced similar legislation again during this Congress. I am pleased to report that both the House of Representatives and the Senate Finance Committee have approved this concept. Section 202 of the present bill would permit voluntary enrollment in the hospital insurance program of people reaching age 65 who are not part of the social security system. The cost of this medicare insurance is estimated at $27 a month. State and public organizations, by agreement with the Secretary of Health, Education, and Welfare will be permitted to purchase this needed protection for their members on a group basis.

The persons now affected most severely by exclusion from medicare are State and local employees, including three-quarters of a million teachers in 13 States as well as policemen and firemen, who are not part of the social security program but belong to their own retirement plan. Because eligibility for medicare was originally predicated on eligibility for social security benefits, these men and women who serve the public and teach our children have been left out of the medicare program.

Some type of hospital insurance, of course, has been available to these people, but only limited coverage is offered. Few private insurers make available comprehensive hospital insurance to the aged. Eligibility for medicare will assume these citizens of adequate health protection.

Mr. President, I am also pleased to note that this legislation makes an urgently needed and long-overdue increase in the retirement income tax credit available to taxpayers 65 years of age or over who have retired under a public retirement system.

Since social security benefits are not taxed, it is only a matter of equity to provide an offsetting tax credit for retirees who are not eligible for social security but have contributed to a retirement plan other than social security.

The retirement income tax credit was first enacted into law in 1954. In 1962, the credit for an individual was increased and a corresponding increase for married couples was passed in 1964. Since that time, social security benefits have been increased substantially: by 7 percent in 1965, 13 percent in 1967, 15 percent in 1969, and an additional 10 percent in the Senate version of H.R. 17550.

Regrettably, the retirement income tax credit has not kept pace.

On September 29, 1969, I introduced legislation to restore an element of tax equity to many of our older citizens by increasing the base amount on which the retirement credit is computed from $1,524 to $1,872 for individuals and from $2,286 to $2,805 for couples. This would increase the maximum credit from $228.60 to $280.80 for individuals and from $342.90 to $421.20 for couples. I am pleased that the House of Representatives and the Senate Finance Committee have adopted this provision and I hope the full Senate will support it.

The PRESIDING OFFICER. The Senator from Louisiana has 1 minute remaining. Does the Senator yield back his time?

Mr. LONG. Mr. President, how much time remains on both sides?

The PRESIDING OFFICER. Less than 1 minute now.

Mr. LONG. Just to summarize, Mr. President, we have heard the opposition to doing something to provide child care by Senators who themselves have introduced measures in this area. The measure of the Senator from New York would cost about $3 billion. The Senator from Indiana has a bill that would cost $6 billion. The Senator from Minnesota has a bill that might cost more than $6 billion.

In the committee bill, we are simply trying to provide $50 million to get a Corporation started in order to try to see that child care is provided. That is the best we have been able to work out in committee. In the past, we have not been able to get the job done by just providing money, so this time we provide both money and a mechanism to get the job done.

The PRESIDING OFFICER. The question is on agreeing to the Harris-Javits amendment. The yeas and nays

have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), the Senator from Georgia (Mr. RUSSELL), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

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

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

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), and the Senator from Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from New York (Mr. GOODELL) is detained on official business.

If present and voting, the Senator from New York (Mr. GOODELL), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 41, nays 38, as follows:

[No. 454 Leg.]

[YEAS—41]

Aiken	Curtis	Murphy
Allen	Dole	Muskie
Allott	Ervin	Packwood
Baker	Griffin	Pastore
Bayh	Harris	Pearson
Bellmon	Hartke	Percy
Boggs	Hruska	Prouty
Brooke	Hughes	Saxbe
Case	Javits	Schweiker
Church	Jordan, Idaho	Scott
Cook	Mathias	Stevens
Cooper	McGee	Yarborough
Cotton	Mondale	Young, Ohio
Cranston	Moss	

NAYS—38

Bennett	Jordan, N.C.	Randolph
Bible	Kennedy	Ribicoff
Byrd, Va.	Long	Smith
Byrd, W. Va.	Magnuson	Sparkman
Cannon	Mansfield	Spong
Ellender	McClellan	Stennis
Fannin	McGovern	Symington
Fulbright	McIntyre	Talmadge
Gravel	Metcalf	Thurmond
Gurney	Miller	Tydings
Hansen	Nelson	Williams, N.J.
Holland	Pell	Young, N. Dak.
Jackson	Proxmire	

NOT VOTING—21

Anderson	Eagleton	Goodell
Burdick	Eastland	Gore
Dodd	Fong	Hart
Dominick	Goldwater	Hatfield
Hollings	Montoya	Stevenson
Inouye	Mundt	Tower
McCarthy	Russell	Williams, Del.

So the amendment was agreed to.

PROGRAM

Mr. SCOTT. Mr. President, I rise to inquire of the distinguished majority leader as to the order of business. I understand that perhaps one more amendment may be offered on this bill; and while an hour is allowed on the bill itself, I sincerely hope, personally, that it will not all be used, in view of the press of circumstances. If I am correct on that, would the majority leader indicate what other measures he plans to proceed with?

Mr. MANSFIELD. Yes, indeed.

May I say that the Senator from Montana had hoped that, following the disposal of the pending business, the next order of business would be the conference report on the Department of Transportation appropriation bill. Whether or not that will be the case, I cannot say at the moment, because there is some talk about the HEW appropriation bill conference report preceding the conference report on the Department of Transportation bill. But we will be in late tonight. Hopefully, we will dispose of the HEW conference report, and, hopefully, the excise tax extension. If we do reach the Department of Transportation bill, it is the intention of the majority leader to move to table the conference report and, if that move is successful, then to offer instructions along the lines of the resolution discussed in the Senate a couple of days ago. That, of course, would seek to bring about a differentiation between the SST as a specific item apart from the rest of the DOT appropriation.

Furthermore, except for the SST appropriation, the rest of the DOT appropriation bill would be extended until June 30, and the cutoff date on the SST would be either March 30 or April 10, because of a calendrical situation which has just been brought to my attention.

As every Senator knows, if we get that far, the amendment offered at that time is subject to amendment itself. But I make this somewhat detailed explanation to make sure that the Senate is aware of what the Senator from Montana is contemplating doing. I would hope that this could be done today, because we have avoided facing up to the question of the SST for too long, and I think it is time for the Senate to face up to this matter and, to use a colloqualism, to fish or cut bait.

Mr. SCOTT. I thank the distinguished majority leader. I sincerely feel that there is more fog about the SST in the Senate than there is in the atmosphere, or even projected.

The distinguished majority leader has said that he intends to propose a motion to table the conference report.

Mr. MANSFIELD. On my own.

Mr. SCOTT. On his own. Therefore, for the information of the Senate, I should like it to be known that I would have to oppose the motion to table. However, if the motion to table is agreed to and the sense of the Senate resolution is offered which was submitted by the majority leader and the minority leader, I would support that for the purpose of bringing this matter before the Senate on a fish-or-cut-bait basis, and would reserve the right to support a possible amendment of which I have been advised and which may well be offered.

I also should put the Senate on notice that if the conferees on the Department of Defense appropriation bill come to no resolution this afternoon, I will, if so requested by the ranking minority members of the Appropriations Committee, offer a petition for cloture, which then of course would be voted on either 1 hour or 2 hours after we convene on New Year's Eve. If that is the case, and we are in session New Year's night, I am going to ask the Sergeant at Arms to open the door to let the little New Year in and provide adequate security precautions for him.

Mr. MANSFIELD. May I say, as long as the distinguished minority leader has raised the question of New Year's, that it is not beyond the realm of the possible that the Senate may well be in session on New Year's Day and on next Sunday as well.

Mr. SCOTT. I just told my wife.

Mr. MANSFIELD. We have a heavy schedule. We have some strong feelings on some of the proposals which will come before us. There is a certain amount of give and take, but not enough; and it is with deep regret that I raise the possibility of meeting on New Year's Day and on Sunday. It may well be that we will be in session until mid-day on Sunday, which of course marks the termination of this Congress.

I hope that the conferees on various measures which are now in conference can come to some reasonable agreement. I hope the Senate will be allowed to express its will, and I hope it would be possible to complete the work of the 91st Congress before noon on Sunday next. But, as things stand now, I would not bet a wooden nickel on that prospect.

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

Mr. SCOTT. I should like to make one statement, and then I will be glad to yield.

I have been advised this afternoon by Members of the other body that in certain instances, without going into detail, they feel that the Senate should have record votes on certain matters, that they intend to insist on this, and that they are prepared to stay until noon of January 3 if necessary. While I regret being obliged to simply report what I have been informed, the mood of the other body is not exactly flexible, either.

Therefore, it looks as though we may have in the other body a lot of quorum calls and reading of the Journal and what some people have called a poor man's filibuster. I hope this does not happen, but I thought the Senate should be advised; because, in a sense, it is a reaction to what they regard as some delays over here, which rumor has it have occurred in this body.

Mr. MANSFIELD. If the Senator will yield before yielding to the Senator from

Florida, may I say that what the House does is its responsibility, and what the Senate does is ours. I hope the Senate will face up to its responsibilities without regard to what the other House thinks or what is thought downtown.

Mr. SCOTT. I appreciate that. It has not helped a bit. I yield now to the Senator from Florida.

Mr. HOLLAND. I should like to address my question to both the leaders. When is it expected that the food stamp conference report will come up? That is a matter we have to dispose of.

Mr. MANSFIELD. I understand that the House is spending the afternoon in paying tributes to Representative MENDEL RIVERS. I understand further that it is doubtful they will get to the food stamp bill this afternoon. But that is only another controversial area which will be subject to considerable talk in this Chamber once it reaches here.

Mr. HOLLAND. I want to serve notice to all Members of the Senate here that a fact is well known to those who conferred on the bill, and to those who are members of the Committee on Agriculture and Forestry, that without an authorization bill, the appropriation which we made may not all be used and the appropriations for the food stamps will expire some time between the middle of January and the end of January. So that I think it is completely a "must" proposal, that we take up the measure and pass it, because no one would want food stamps to come to a halt in that way.

Mr. MANSFIELD. May I say that there are a lot of "must" proposals still awaiting consideration: railroad assistance, excise taxes, school desegregation, transportation appropriation, pay comparability, Labor and HEW appropriations, foreign aid appropriations, food stamps, the environmental committee, defense appropriations, and so forth, and so forth.

We do not lack for issues here.

Mr. SCOTT. If I may reply further to the Senator from Florida, my understanding is that the other body intends to insist on the work provision in the food stamp bill. I say this without prejudice to what any Senator may feel about it but, may I say, there will be no food stamp bill this year, as much of a hardship as that will involve, unless the Senate and the House will legislate and get together on that work provision in the bill. In other words, no longer can any one Member of Congress hold up this bill without facing the fact that that Member will also be depriving the people of this country of food stamps.

Mr. HOLLAND. I thank the minority leader. I am glad he mentioned that fact because, in my humble judgment, whoever holds up approval of this conference report will have placed himself in the position of terminating the food stamp program sometime early in January.

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. HARRIS. Mr. President, following conversations I have had with the Senator from Louisiana (Mr. LONG), concerning possible hearings next year in regard to the entire subject of day care, I am willing now to go to third reading. On behalf of myself and the distinguished Senator from New York (Mr. JAVITS), we are willing to forego offering the second amendment in regard to child care which was referred to in last night's agreement. We are willing to do that if the bill can go now directly to third reading.

The PRESIDING OFFICER (Mr. BELLMON). Under the agreement of last evening, the technical amendments may now be offered.

Mr. LONG. Mr. President, I have a number of technical amendments which I send to the desk. They are technical, clerical, perfecting, and conforming amendments, and I ask that they be considered and approved en bloc.

The PRESIDING OFFICER. Without objection, the reading of the technical amendments will be dispensed with and they will be printed in the RECORD at this point.

The text of the amendments is as follows:

On page 89 of the bill, between lines 17 and 18, there should be inserted in linetype the language contained in lines 11 through 22 of the House passed bill.

On page 31, line 11, the close quotation mark should not be linetyped.

On page 134, line 15, delete "organs" and insert "organ".

On page 174, line 13, delete "clause 11" and insert "clause II".

On page 174, line 14, delete "section 1802" and insert "section 1832".

On page 231, line 16, delete "further".

In column II of the table which appears on page 7 of the bill, strike out "197.40" and insert in lieu thereof "179.40".

In column V of the table which appears on page 7 of the bill, strike out "288.00" and insert in lieu thereof "288.70".

On page 24, line 10, strike out "shall".

Beginning on page 29, line 23, strike out all through page 30, line 3.

On page 32, between lines 23 and 24, insert the following:

(i) In the case of any individual who became entitled to a widow's or widower's insurance benefit after attaining age 62 and who is entitled to such benefit for the month of December 1970, the provisions of this section shall not operate to reduce such benefit to less than 82½ percent of the primary insurance amount of the deceased individual on the basis of whose wages and self-employment income such benefit is payable.

On page 32, line 24, strike out "(i)" and insert in lieu thereof "(j)".

On page 89, line 12, insert "so reported, and" immediately after "and".

Beginning with the word "For" on page 271, line 24, strike out all before the period on page 272, line 4, and insert in lieu thereof the following: "The provisions of paragraphs (9)(A), (29), (32), and (33) shall not apply to Christian Science sanatoriums operated, or listed and certified, by the First Church of Christ, Scientist, in Boston, Massachusetts'.

On page 301, line 6, strike our "fourth-quarter" and insert in lieu thereof "four-quarter".

On page 405, line 2, strike out "one);" and insert in lieu thereof "one);".

On page 406, line 14, strike out "; and".

On line 407, line 6, strike out "; and".

On page 407, line 24, strike out "and".

On page 408, line 2, strike out "and" and insert in lieu thereof "or".

On page 408, line 3, strike out "respectively".

On page 410, line 19, insert "which" immediately after "work".

On line 411, line 20, insert "which" immediately after "work".

On page 416, line 21, strike out "or assistance".

On page 418, line 15, strike out "rsepect" and insert in lieu thereof "respect".

On page 449, lines 17 and 18, strike out "appropriate members of such families and such other individuals" and insert in lieu thereof "each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7)".

On page 450, line 6, strike out "organization" and insert in lieu thereof "organizational".

On page 451, line 3, insert "and that" immediately before "any".

On page 463, strike out the matter appearing on lines 5 and 6, and insert in lieu thereof "duty of which shall be to establish uniform reporting and".

On page 465, line 6, insert "of such Act" immediately after "442".

On page 465, line 13, insert "of such Act" immediately after "443".

On page 465, between lines 15 and 16, insert the following:

(13) (A) Section 444 (c)(1) of such Act is amended by striking out "section 402 (a)(15) and section 402 (a) (19) (F)" and inserting in lieu thereof "section 402 (a) (19)".

(B) Section 444 (d) of such Act is amended (i) by striking out "a special work project" and inserting in lieu thereof "public service employment"; (ii) by striking out "project" at the end of the first sentence and inserting in lieu thereof "employment"; and (iii) by striking out "402 (a) (15)" and inserting in lieu thereof "402 (a) (19)".

On page 564, line 16, strike out "(13)" and insert in lieu thereof "(14)".

On page 466, line 8, strike out "(C)" and insert in lieu thereof "(c)".

On page 499, lines 13 and 14, strike out "520(b)(14), 530, and 542" and insert in lieu thereof "520 (b) (14) and 530".

On page 499, line 17, insert "commences after December 31, 1970 and which" immediately after "which".

On page 535, line 13, strike out "432(b)(1)(B)" and insert in lieu thereof "432 (b)(1)".

In the table of contents which appears on page 546 of the bill, strike out, in the matter describing section 520 of the bill, the word "Society" and insert in lieu thereof "Social".

The PRESIDING OFFICER. The question is on agreeing to the technical amendments en bloc.

The technical amendments were agreed to en bloc.

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The question is on final passage. Under the unanimous-consent agreement, debate is limited to 1 hour, to be equally divided and controlled, respectively, by the majority leader and the minority leader or their designees.

Who yields time?

Mr. MANSFIELD. Mr. President, I yield control of my time to the Senator from Louisiana (Mr. LONG).

Mr. LONG. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 3 minutes.

Mr. LONG. Mr. President, notwithstanding the disappointment shared by many in this body, including the chairman of the committee, that parts of the committee-reported bill that we would like to see enacted cannot become law in this session of Congress, there yet remains in the bill $7.5 billion in benefits under social security and public welfare programs to beneficiaries, to persons who find it necessary to come to the public welfare program for assistance, and to those persons who desire jobs, job training, and child care, and other opportunities for a better life.

I think, Mr. President, that this is a landmark bill, that it is one of the largest social security-public welfare bills ever passed in the history of this country. In fact, it may very well be the largest bill of its kind in the public welfare and social security areas, perhaps even more significant than the medicare bill, so far as size and the effort to get on with the job of caring for those who depend upon our public welfare and our social security systems are concerned.

So I hope that the Senate will pass this bill. I believe that when we review what remains, we will find that this is a good bill and a credit to the Senate.

Mr. HARRIS. Mr. President, I want to pay a well-deserved tribute to the distinguished Senator from Louisiana (Mr. LONG). He has spent long hours on this bill. In the hearings, he has been eminently fair in every respect, allowing every member of the committee to present his views fully. The work he has done and the motion he made in committee in support of the $100 minimum for social security, which is now a part of the bill, and the efforts he joined in toward raising the benefits by 10 percent, and the other wholesome provisions in the bill, are primarily due to his diligent work and dedicated efforts for the people of this country who are served by the social security, medicare, medicaid, and welfare programs of this country.

I honor him as my chairman of the committee. I believe he is entitled to the highest praise of the Senate for the bill that is now before us and is, I hope, about to be passed.

Mr. LONG. I thank the Senator from Oklahoma. I salute him for the effective work the Senator has done in the committee, as well as here on the Senate floor, in regard to matters in which he was interested. I also believe it is well to point out that the Senators on the committee, the Senator from Georgia (Mr. TALMADGE), the Senator from Utah (Mr. BENNETT), the Senator from Connecticut (Mr. RIBICOFF), and others, all made major contributions to the bill that stands before us. Although there is, of course, a great deal of room for revision and debate on the controversial items, I think the Senate has come forth with an extremely significant bill and one which I believe will do the Senate credit.

Mr. JAVITS. Mr. President, I join other Senators in congratulating the distinguished Senator from Louisiana. It could almost be said in advance that this could not be done. The Senator from Louisiana, in a rare example of subordinating his own feelings and his own deep convictions, got it done. I think he is entitled to all the credit we can give him. Even on the Child Care Corporation on which we differ, I have never said and I do not say now that it is not an ingenious and fresh idea. I can pledge to the Senator, for myself, that I will dig into this matter very carefully. For all I know, we may well end up with exactly that. So that I think the Senator has served the Senate remarkably well, and I would like to join my colleagues in paying tribute to the Senator from Louisiana.

I also join with my colleagues in praise of those colleagues and staff persons of both the executive and legislative branches who worked so hard on the family assistance plan, and particularly of Mitchell Ginsburg, former head of the Human Resources Administration and now dean of Columbia School of Racial Work, who so tirelessly made every effort to obtain passage this year. It is my hope that early and favorable consideration next year will make this year's effort a fulfilled one both for the individual worker and for the poor.

Mr. TALMADGE. Mr. President, I wish to join my colleagues, the Senator from Oklahoma and the Senator from New York, in paying tribute to our distinguished chairman for his work in accomplishing legislative results which will take place momentarily in the passage of one of the most momentous bills which will have passed the Senate since I became a Member of this body.

I think that the amendments we have made to the Social Security Act raising the benefits by 10 percent with a minimum of $100 a month can do a great deal for the needy people of our country. Also the amendments that raise the benefits to our aged, blind, and the totally disabled people will be of tremendous benefit to millions of Americans.

Also a number of amendments in the field of medicare and medicaid will be most beneficial to hundreds of thousands of Americans as well as to the taxpayers of this country.

In the area of welfare reform, the Senate Finance Committee adopted amendments which I offered, that were based primarily upon the Auerbach Report, a government-financed study of the work incentive program. These amendments will at long last bring some real reform into the area of welfare and will offer training and job opportunities to our people to the point that they will have an income and will become taxpayers rather than beneficiaries of welfare.

I, too, want to pay tribute to our ranking minority member, Senator WILLIAMS of Delaware, who has made great contributions. The Senator from Connecticut (Mr. RIBICOFF), the Senator from Wyoming (Mr. HANSEN), the Senator from Iowa (Mr. MILLER), the Senator from Arizona (Mr. FANNIN), the Senator from Oklahoma (Mr. HARRIS), the Senator from New Mexico (Mr. ANDERSON), the Senator from Tennessee (Mr. GORE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Indiana (Mr. HARTKE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Virginia (Mr. BYRD), the Senator from Utah (Mr. BENNETT), the Senator from Nebraska (Mr. CURTIS), and the Senator from Idaho (Mr. JORDAN) on both sides of the aisle made major contributions to this mammoth piece of legislation.

I think it is a landmark in the history of the Senate.

I congratulate my distinguished chairman and all the members of the Finance Committee who made such valiant contributions.

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

Mr. LONG. Mr. President, I ask unanimous consent that I be recognized for 5 additional minutes.

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

Mr. LONG. Mr. President, I yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the legislation that we are about to pass has much in it that is worthwhile.

I must repeat, however, my disappointment that the family assistance program did not come to a vote. I believe the Senate should have been given the opportunity to vote on the merits of this proposal.

I, too, have the highest praise for the chairman and the other members of the Finance Committee for their hard work.

I want to take a few minutes to pay tribute to my legislative assistant, Mr. Taggart Adams, who has worked so closely with me this last year on the Family Assistance Program. He has shown extreme dedication and ability and his efforts certainly make us all realize the value of staff assistance in our work in the Senate.

In my opinion, no Member of the Senate, or anyone in the country, knows more about the Family Assistance Program than Taggart Adams.

I also want to pay tribute to Mr. Mitchell Ginsberg of New York, now Dean of the University of Columbia School of Social Work, who has literally worked himself sick trying to work out the compromises which arose in drafting a workable Family Assistance Program.

One is hard pressed to find anyone who more effectively forges compassion and knowledge into a force for progress. Mitchell Ginsberg deserves the thanks of everyone concerned with alleviating the blight of poverty in the United States.

I think time will show that these two men have been primarily responsible for developing the foundations necessary for the eventual passage of family assistance.

Special tribute should also be paid to the following members of the Department of HEW: Under Secretary Jack Veneman, Deputy Under Secretary Bob Patricelli, Special Assistant to the Under Secretary Tom Joe, and Deputy Assistant Secretary Howard Cohen.

I am confident that early next year the Senate will have an opportunity to completely consider and debate the Family Assistance Program, and I predict that the Family Assistance Program will be adopted next year. The men I have named must be credited with a large part of this success.

I also point out that, while the Chairman's proposal for a child care corporation was stricken from the bill on the floor today by a narrow vote, it is my opinion that this is a most imaginative proposal. Once it is realized that we are moving beyond old thinking in treating social problems, I believe the Senate will better understand the proposal of the Senator from Louisiana and will adopt it.

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

Mr. LONG. I yield.

Mr. PASTORE. Mr. President, I join my colleagues in paying tribute to the members of the committee, particularly to the chairman of the committee who marshalled this bill through to a successful enactment. The Senate bill provides for a 10-percent increase for those on social welfare as against a 5-percent provision by the House.

I would hope that the same kind of ingenuity, the same kind of acumen and energy will be exerted in the conference to have the House go along with the Senate on a 10-percent increase rather than 5 percent.

Mr. LONG. Mr. President, I yield to the Senator from California.

Mr CRANSTON. Mr. President, I join in paying tribute to the chairman of the committee for the remarkable work he and the committee have done.

Let me say first to the chairman that his fairness, tolerance, patience, skill, and good humor all throughout the consideration of this measure have been tremendous. He has won for himself the undying respect of many Senators for his performance on this measure.

May I ask the distinguished chairman a question about section 520 of the pending measure?

In title V of the bill—the so-called WIN amendment—the words "special work projects" are stricken and the words "public service employment" are inserted.

Also, there are a number of other references in section 520 to "public service employment."

I worked very closely with the chairman on this matter and with Senator TALMADGE who offered it in Committee, and Senator RIBICOFF, who also has a great interest in this subject and had prepared a parallel amendment.

I understand that "Operation Mainstream" and "New Careers"—programs authorized in part E of the Economic Opportunity Act of 1964, as amended—would be included within the public service employment intended by the pending measure.

I would like to read very briefly from the Economic Opportunity Act, part E, section 161, a portion of the congressional finding with respect to the Operation Mainstream and New Careers programs.

The Congress found that:

[These two programs] providing jobs for the unemployed and low-income persons leading to broader career opportunities are uniquely effective; that, in addition to providing persons assisted with jobs, the key to their economic independence, these programs are of advantage to the community at large in that they are directed at community beautification and betterment and the improvement of health, education, welfare, public safety, and other public services;

Am I correct in my assumption that such programs will be included in the concept of public service amendment envisaged by the bill?

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

Mr. LONG. Mr. President, I ask unanimous consent that I may have such time as I require.

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

Mr. LONG. Mr. President, the Senator is entirely correct. He will find the committee report emphasizes and underlines what he is saying here, that it is expected that the Secretary would take full advantage of these existing programs in providing public service employment.

Mr. CRANSTON. Mr. President, I ask unanimous consent to have printed at this point in the RECORD part E of sections 161 through 167, the Economic Opportunity Act of 1964, as amended, already referred to.

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

PART E—SPECIAL WORK AND CAREER DEVELOPMENT PROGRAMS

STATEMENT OF PURPOSE

SEC. 161. The Congress finds that the "Mainstream" program aimed primarily at the chronically unemployed and the "New Careers" program providing jobs for the unemployed and low-income persons leading to broader career opportunities are uniquely effective; that, in addition to providing persons assisted with jobs, the key to their economic independence, these programs are of advantage to the community at large in that they are directed at community beautification and betterment and the improvement of health, education, welfare, public safety, and other public services; and that, while these programs are important and necessary components of comprehensive work and training programs, there is a need to encourage imaginative and innovative use of these programs, to enlarge the authority to operate them, and to increase the resources available for them.

SPECIAL PROGRAMS

SEC. 162. (a) The Director is authorized to provide financial assistance to public or private nonprofit agencies to stimulate and support efforts to provide the unemployed with jobs and the low-income worker with greater career opportunity. Programs authorized under this section shall include the following:

(1) A special program to be known as "Mainstream" which involves work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, physical condition, obsolete or inadequate skills, declining economic conditions, other causes of a lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including without limitation activities which will contribute to the management conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands, the rehabilitation of housing, the improvement of public facilities, and the improvement and expansion of health, education, day care, and recreation services;

(2) A special program to be known as *"New Careers"* which will provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or area served in fields of public service, including without limitation health, education, welfare, recreation, day care, neighborhood redevelopment, and public safety, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment without Federal assistance, which give promise of contributing to the broader adoption of new methods of structuring jobs and new methods of providing job ladder opportunities, and which provide opportunities for further occupational training to facilitate career advancement.

(b) The Director is authorized to provide financial and other assistance to insure the provision of supportive and follow-up services to supplement programs under this part including health services, counseling, day care for children, transportation assistance, and other special services necessary to assist individuals to achieve success in these programs and in employment.

ADMINISTRATIVE REGULATIONS

SEC. 163. The Director shall prescribe regulations to assure that programs under this part have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of in-service training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds.

SPECIAL CONDITIONS

SEC. 164. (a) The Director shall not provide financial assistance for any program under this part unless he determines, in accordance with such regulations as he may prescribe, that—

(1) no participant will be employed on projects involving political parties, or the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(2) the program will not result in the displacement of employed workers or impair existing contracts for services, or result in the substitution of Federal for other funds in connection with the work that would otherwise be performed;

(3) the rates of pay for time spent in work-training and education, and other conditions of employment, will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant; and

(4) the program will, to the maximum extent feasible, contribute to the occupational development and upward mobility of individual participants.

(b) For programs which provide work and training related to physical improvements, preference shall be given to those improvements which will be substantially used by low-income persons and families or which will contribute substantially to amenities or

facilities in urban or rural areas having high concentrations or proportions of low-income persons and families.

(c) Programs approved under this part shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement.

(d) Projects under this part shall provide for maximum feasible use of resources under other Federal programs for work and training and the resources of the private sector.

PROGRAM PARTICIPANTS

SEC. 165. (a) Participants in programs under this part must be unemployed or low-income persons. The Director, in consultation with the Commissioner of Social Security, shall establish criteria for low income, taking into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors. Any individual shall be deemed to be from a low-income family if the family receives cash welfare payments.

(b) Participants must be permanent residents of the United States or of the Trust Territory of the Pacific Islands.

(c) Participants shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employment benefits.

EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 166. The Director shall establish criteria designed to achieve an equitable distribution of assistance along the States. In developing those criteria, he shall consider, among other relevant factors, the ratios of population, unemployment, and family income levels. Of the sums appropriated or allocated for any fiscal year for programs authorized under this part not more than 12½ per centum shall be used within any one State.

LIMITATIONS ON FEDERAL ASSISTANCE

SEC. 167. Programs assisted under this part shall be subject to the provisions of section 131 of this Act.

Mr. LONG. Mr. President, the Senator from Georgia and the Senator from Connecticut led the fight on this particular provision. The Senator is correct in his interpretation of that section.

Mr. TALMADGE. Mr. President, the amendment was based primarily upon the Auerbach report which was financed with Federal funds. They made their report and neither the Department of HEW nor the Labor Department put their recommendations into effect.

It was the opinion of the Committee on Finance that they ought to be put into effect.

I had offered an amendment making 10 important changes in the work incentive program. The distinguished Senator from Connecticut had offered some amendments along parallel lines. In committee, the Senator from Connecticut very gallantly said:

I think that Senator Talmadge's amendments are better than mine. I think his amendments should be adopted.

That is what the committee did.

We are hopeful that these amendments will bring some order out of chaos in the WIN program which was adopted by the Senate 3 years ago and never fully implemented.

Mr. President, I ask unanimous consent that my speech of July 20, introducing my amendment, be printed in the RECORD at this point in my remarks.

My amendment was submitted as an amendment to H.R. 16311, the Family Assistance Act passed by the House. However, when the Finance Committee rejected the Family Assistance Plan, I offered my proposal as an amendment to H.R. 17550, the Social Security Amendments of 1970.

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

SUBMISSION OF AMENDMENT TO H.R. 16311, THE FAMILY ASSISTANCE ACT

AMENDMENT NO. 788

Mr. TALMADGE. Mr. President on several previous occasions I have spoken out against certain aspects of H.R. 16311, the administration's Family Assistance Act.

I have expressed doubts about the cost figures given by the administration.

I have expressed grave reservations about the work incentive aspects of the bill.

I have shown the weaknesses of the evidence produced by the "New Jersey experiment," which is the only proof that this administration has presented to show that its family assistance plan will work.

On May 14, I introduced an amendment to change the name of H.R. 16311 from "The Family Assistance Act of 1970" to "The Welfare Expansion Act of 1970." This was done to clarify the true issues involved in the Finance Committee's consideration of this legislation.

Although the administration's bill has been widely touted as welfare reform, the chief characteristic of the bill which passed the House of Representatives is not welfare reform. It is welfare expansion. The most noticeable feature of this legislation is to extend welfare benefits to 15 million additional Americans.

I had hoped that the revised version of H.R. 16311, which the administration recently sent back to the Finance Committee, would make meaningful improvements which would add substance to administration rhetoric. Unfortunately, I have been disappointed.

The purpose of the amendment I offer today is to strengthen the work incentive, job training, and job placement features of the administration bill so that the administration slogan about "workfare rather than welfare" will have an element of truth.

When President Nixon first announced in August 1969 that he would seek major welfare legislation, he selected as his major theme his intention to "turn welfare into workfare." Listening to the kind of publicity given to the President's proposals, you would get the impression that Congress had never turned its attention to the problems involved in making welfare recipients independent.

As my colleagues in the Senate know, this is simply not the case. Eight years ago, Congress passed the Public Welfare Amendments of 1962, which were aimed at preventing or reducing dependency by offering rehabilitative and other social services to welfare recipients and other persons likely to become dependent.

This approach was not sufficient, however, and as the welfare rolls began increasing at an accelerated rate, the Committee on Finance in 1967 designed the work incentive program which subsequently became law. I supported the establishment of the work incentive program at that time, and I still feel that it is good basic legislation.

The Labor Department in administering it, however, has failed to meet the promise of the legislation to lead welfare recipients to useful productive lives.

All too often petty jealousy between the Labor Department and the Department of Health, Education, and Welfare, on the local as well as the national level, has undermined the program's sound intent, and both Departments have generously provided funds to the National Welfare Rights Organization, whose stated goal is to defeat the purposes of the work incentive program.

The result is understandable. Although there are about 10 million people who receive welfare in this country, only about 50,000 are currently enrolled in a work incentive program. Inept administration of the WIN program has made it a dismal failure.

Mr. President, in view of this record of dismal failure, one would think that the administration would have given highest priority to strengthening and reforming job training and job placement programs in any proposed welfare reform bill.

But what does the administration's welfare bill do? It repeals the present program, replacing it with vague provisions allowing the Secretary of Labor to provide any kind of training he may feel like providing to any person registered under the family assistance plan in whatever order of priority he deems appropriate.

Since the bill requires the registration of persons already working full time, the Secretary may decide not to train persons whose sole income is from welfare, but only to take people out of work who are now working and to train them for other jobs. Because the bill would extend what amounts to a military pay raise to 50,000 military families, the Secretary of Labor could decide to provide training only to privates on KP.

The examples I have named may sound ridiculous, Mr. President, but this could happen under the vague language of the President's welfare bill now pending in the Senate Committee on Finance.

The past record of the Department of Labor and the Department of Health, Education, and Welfare in administering the work incentive program convinces me that such ridiculous examples are not beyond the realm of possibility.

On April 29 and 30, and May 1, the Committee on Finance began its hearings on the President's welfare bill. We recessed them after 2½ days, after hearing from former Secretary of Health, Education, and Welfare Robert Finch, because it became clear that the administration knew very little about its bill and its impact.

In fact, today, 2½ months later, the Department is still working on the answers to questions we raised at the end of April about the bill. For example, present law has since July 1969 required States to disregard a portion of earnings in determining need for welfare as a work incentive.

I asked the Secretary on April 29 how many welfare recipients have benefited from these earned income disregard provisions, and to what extent earnings of welfare recipients have increased as a result of this provision. This seemed to me a very basic question in view of the fact the Department was recommending substantial changes in the earned income exemption. I found to my surprise that they had no idea of the answer of this question. To this date they have not submitted the answer to my question of 2½ months ago, and this is but one of many examples.

Mr. President, in a way I am sorry we did not have the chance to interrogate the Secretary of Labor before the hearings were recessed in the beginning of May. For if we had questioned him, I am sure that the Department of Labor would have taken more seriously the committee's directive that the bill be rewritten to provide a meaningful work incentive program.

In looking through the administration's revised bill, I find that they have made no substantive change of note in the work incentive provisions.

Mr. President, the Labor Department last year contracted with Auerbach Corp. to review and evaluate operations under the work incentive program. That firm conducted on-site visits in 23 cities and reviewed the programs there in depth. The report of the Auerbach Corp. states that:

"The basic idea of WIN is workable—though some aspects of the legislation require modification."

The Auerbach report details the administrative, and in some cases legislative changes which are needed in the light of experience to improve the sound legislation Congress enacted in 1967.

Unfortunately, the administration has largely ignored the conclusions of the Auerbach report and has gone off in another direction in the legislative proposals it has incorporated in both the original welfare bill and in the administration revision.

Today, Mr. President, I am submitting an amendment to the welfare bill designed to improve the present work incentive program along the lines that experience has shown are necessary. I would like to outline here what my amendment would do.

First, it would mandate coordination between the Departments of Labor and Health, Education, and Welfare on the national, regional and local levels. Today, certain regulations of the Department of Health, Education, and Welfare on the work incentive program conflict with regulations of the Department of Labor. My amendment would require that all regulations on the work incentive program be issued jointly by both agencies, and that they be issued within 6 months of enactment of the bill.

Second, it requires that a joint HEW-Labor committee be set up to assure that forms, reports, and other matters are handled consistently between the two departments. It is imperative that the work incentive program be operated under one set of guidelines, policies, and administrative procedures.

Third, under present law the welfare agency is supposed to prepare an employability plan for each appropriate case and make referrals to the Department of Labor. The Department of Labor is then to prepare an employability plan and place the individual in employment, on-the-job training, institutional training, or public service employment. Problems have arisen in this process.

In some cases, the welfare agency has not referred sufficient numbers of persons, while in other cases they have referred too many persons, without first arranging for the supportive services, such as day care, needed for the welfare recipient to participate in the work incentive program. Due to lack of coordination between the welfare agency and the Labor Department, persons have sometimes been referred who do not match the training or employment opportunities available in the area.

My amendment would solve this problem by requiring the welfare agency to set up a unit with the responsibility of arranging for supportive services so that the welfare recipients may participate in the work incentive program. Furthermore, it would require that the welfare agency and the Labor Department on the local level enter into a joint agreement on an operational plan—that is, the kinds of training they will arrange for, the kinds of job development the Labor Department will undertake, and the kinds of job opportunities both agencies will have to prepare persons for during the period covered by the plan. In addition, both agencies will jointly develop employability plans for individuals, consistent with the overall operational plan, which will assure that individuals will receive the necessary supportive services and preparation for employment without unnecessary waiting.

Fourth, on-the-job training and public service employment have been virtually nonexistent under the work incentive program as administered by the Department of Labor. Instead, that Department has spent most of the work incentive program appropriations on institutional training, which often did not lead to employment, particularly in today's rising unemployment. What is lacking is job development, through utilization of both on-the-job training with private employers, and public service employment.

My amendment would require that 40 percent of the funds spent under the work incentive program appropriation be for on-the-job training and public service employment. If at least this amount is not spent on programs which in effect guarantee placement, it seems to me that we are wasting money if we spend it on institutional training.

Fifth, as an incentive for employers in the private market to hire individuals who are placed in their employment through the work incentive program, my amendment would provide a tax credit equal to 20 percent of the wages and salaries of these individuals. The credit would apply to wages paid to these employees during their first 12 months of employment. The tax credit would be recaptured if the employer terminated the employment of the individual during the first 12 months of his employment or before the end of the following 12 months. This recapture provision would not apply if the employee became disabled or left work voluntarily.

This tax incentive approach is an adaptation of a bill I have introduced previously, S. 3156, the Employment Opportunity Act of 1969. That bill provides for a tax credit for job training and for employees who are hired from a work incentive program.

The tax incentive is a key provision of my amendment. No work incentive or job training program can ever be successful unless we have the full cooperation of private business interests. In many cases, welfare recipients will be very poor employment risks. They will need a great deal of costly training and special consideration before they can achieve full productivity. It is unfair and unrealistic to expect a profit-motivated businessman to undertake this responsibility without some compensation. My tax incentive provision is designed to bridge the gap between a government program and productive employment.

Sixth, my amendment would simplify funding arrangements for public service employment under the work incentive program by providing 100 percent Federal funding for the first year, and a 90-percent Federal sharing of the costs in subsequent years.

Seventh, my amendment would establish clear priority among persons registering for employment and training by requiring the Secretary of Labor to accord priority in the following order:

First. Unemployed fathers;

Second. Dependent children and relatives age 16 and over who are not in school, working, or in training;

Third. Mothers who volunteer for participation;

Fourth. Individuals working full-time who wish to participate; and

Fifth. All other persons.

My amendment would not require persons working full time to register for employment and training, although they could volunteer to upgrade their skills if they wished. Under my amendment, no mother would be required to undergo work and training until every single person who volunteered for work and training was first placed. The evidence shows that there are many more persons who wish to participate voluntarily than the program can reasonably handle in the foreseeable future.

Eighth, my amendment would require, on a State-by-State basis, that at least 15 percent of the registrants for the work incentive program be enrolled in the program each year. If the State falls below this level, Federal matching for State supplementary payments would be reduced.

Ninth, operations under the work incentive program have often failed to meet the objective of the program because too little attention was paid to the actual labor market conditions and requirements in the geographic area. My amendment would require the establishment of local labor-market advisory councils whose function it would be to identify present and future local labor-market needs. The findings of this council would serve as the basis for the work incentive program operational plans on the local level.

Finally, my amendment would specify that appropriations for the work incentive program be allocated among the States in proportion to the number of registrants for employment and training in the States.

Mr. President, my amendment would make basic and fundamental changes in the work incentive provisions of the President's family assistance plan. However, it would not solve all the problems that inherent in H.R. 16311. I know that other members of the Finance Committee have their own ideas as to how to correct some of the deficiencies and the inequities in the administration's revised bill. We will resume hearings on the family assistance plan tomorrow.

I would not care to predict whether the Family Assistance Act will receive the approval of the Finance Committee and the Senate during the current session. I do, however, want to emphasize that I consider my amendment vital, whether we have a family assistance plan this year or in the distant future.

No one is more aware than I that the Government has a responsibility to provide for individuals who are unable to care for themselves—the aged, blind, disabled, and the very young. My legislative record in this session and in past sessions of Congress will show that I have consistently supported and sometimes introduced measures to benefit this group.

However, I feel equally strong that we can never solve the social problems of this Nation by guaranteeing able-bodied individuals a minimum standard of living. The chief thrust of any reform effort must be directed at providing job training and job placement for those individuals who are able and willing to work.

Mr. President, I believe that this amendment will provide a constructive alternative to the very deficient provisions in the welfare bill before the Finance Committee.

Mr. CRANSTON. Mr. President, the Senator from Georgia has been very helpful and tremendously cooperative on this important aspect of the bill. I am most grateful to him.

Mr. TALMADGE. Mr. President, all the members of the committee deserve the praise in this case. My amendments were adopted unanimously. The staff of the Finance Committee as well as my own staff have worked diligently for months on this matter. I offered these amendments hoping to bring some order out of chaos. The Committee on Finance adopted them unanimously without any change whatever.

Mr. RIBICOFF. Mr. President, I confirm the comments of the Senator from Louisiana and the Senator from Georgia. We were disturbed in the Finance Committee over the fact that the WIN program was not successful and was not being utilized. The estimates of the Department of Labor were much lower than should have been the case. The provisions in the bill provide that at least 40 percent of the funds be spent for public service jobs or on job training with some meaning of the interpretation of the definition read by the Senator from California with respect to the concept of public service jobs.

We would hope the Labor Department would really become interested and become involved in public service jobs and

on-the-job training so there would be meaningful reason to move people out of welfare, and not into dead end jobs.

Mr. CRANSTON. Mr. President, I wish to express my thanks to the Senator from Connecticut for his leadership in this area and open-mindedness and courtesy throughout.

Mr. LONG. Mr. President, I yield to the Senator from Nebraska.

Mr. CURTIS. Mr. President, I join Senators in paying tribute to our distinguished chairman, the Senator from Louisiana (Mr. LONG). He has been very courteous and fair with all members of the committee. He has so conducted himself on the floor of the Senate.

It seems to me I can never recall a case where a chairman has gone to such lengths to complete a bill and waive points in it which he personally desired very much. There were provisions in the bill as reported by the committee in which my distinguished chairman was very much interested. Yet in order that the bill might advance and in order that our social security beneficiaries might have an increase in benefits now, he waived those provisions—not for other provisions in the bill, but because of the threat of floor amendments. I think he is to be commended for that.

I personally wish to thank the chairman for his kindness to me. I also would like to include praise for the distinguished Senator from Delaware (Mr. WILLIAMS) who is retiring. Had the Senate followed the lead of the chairman of the Committee on Finance and the ranking minority member (Mr. WILLIAMS) this matter could have been disposed of days ago and we could have moved nearer completion of our business and restoration of the respect of the country.

Again I wish to pay tribute to our fine staff for their dedicated work, long hours, professional competence and I know they will be called upon for a great deal of intensive and difficult work and long hours as we approach the conference on the bill.

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

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. MILLER. Mr. President, I thank the distinguished Senator from Louisiana. I wish to join with other Senators on the committee in extending appreciation and praise to him for the excellent job he has done in managing this very important bill. Like all important pieces of legislation to come before the Senate, there are some things in the bill which we like and there are some things in the bill which we do not like.

To me one of the most serious defects in the bill is the fact that the $100 minimum social security is to be funded out of the social security trust fund. As I pointed out on the floor previously this means that the relatively low-income wage earners who are trying to maintain their families are going to be paying social security taxes to make up for the lack of taxes paid by so many of these recipients of the $100 minimum.

There is no question that many of those $100 minimum recipients need the money, but that money should come from the general fund of the Treasury and not out of the hides of the low-income people who are paying taxes. That causes a very serious minus in the bill.

I am also disappointed that the bill does not contain something covering catastrophic illness, disease, and injury. The Senator from Louisiana offered what I thought was a reasonable approach to this serious problem, one we should have faced up to and taken action on even before action on medicare and medicaid.

As I said in the debate on medicare, I can become more concerned about a man 35 years of age who is taken with multiple sclerosis than with someone who happens to be over 65 who may be a wealthy individual. The Senate has not faced up to that serious problem.

The Senator from Louisiana did his best to meet that situation. I compliment him on his statesmanship in being willing to delete this very important provision in order to get on with the job of the social security bill.

But Mr. President, the most unprecedented and most important feature of the bill is the automatic increase in social security benefits to keep pace with increases in the cost of living.

The Senate will recall that in 1962, we took such action with respect to civil service retirees. That is what gave me the idea to introduce, and I believe it was for the first time, a proposal in 1963 to provide for automatic increases in social security benefits to keep pace with increases in the cost of living. I said at the time I introduced this proposal that if we did that in 1962, for civil service retirees, we should do it for social security beneficiaries. I introduced that proposal again in 1965, in 1967, and in 1969.

Thanks to the attention and the hard work on the part of some of my colleagues and a number of the senior citizens' organizations around the country, this proposal has been increasing in its bipartisanship and support. Last year President Nixon was the first President in the history of this country to recommend such a proposal to Congress. I think it is a great thing that we now have this pretty well locked into law because the House bill does contain the basic elements of the automatic increase provision.

There are a few differences over the financing, but I am sure those can be handled in conference. So, Mr. President, above everything in this bill, I think this is of utmost importance. I have talked to a great many older people, not only in my State, but all around the country, and if there is one priority they want, it is some assurance that if inflation is going to take over and diminish the purchasing power of their benefits, that there would be some automatic way of enabling them to roll with the punch of inflation so they would not be hit with hardship.

It is true that over the years Congress periodically has increased social security benefits so that over a period of years we might say we have caught up to inflation; but the fact remains that during the interim literally billions of dollars have been taken away from social security beneficiaries because of inflation, and these losses have not been covered by Congress when we finally got around to increasing benefits.

In connection with my concern over the $100 minimum, I ask unanimous consent that there be printed in the Record excerpts from my separate views which are printed on page 447 of the committee report.

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

SEPARATE VIEWS OF MR. MILLER

* * * * *

Second, the increase in the minimum social security benefits from the present $64 per month to $100 per month at an annual cost of $1.5 billion to the social security trust fund is inequitable. Acting impulsively on the simplistic plea that "no one can live on sixty four dollars a month", the Senate last December adopted such an amendment to the Tax Reform Act of 1969. This was quickly disposed of by the House Conferees during the conference on the bill who noted that a large number of the recipients of the social security minimum already receive benefits from one or two other pensions—civil service retirement, state and local retirement, or private corporation retirement; and that state old age assistance payments prevent anyone from having to live on $64 per month. Instead of applying the proposed 10 percent increase in social security benefits across the boards to include the present minimum, which would mean an increase from $64 to $70.40 per month, the bill provides an increase in the minimum to $100—regardless of need—at a cost to the taxpayers of $1.5 billion per year.

Worse yet, this $1.5 billion plus also the amount needed to cover a 10 percent increase in the minimum would be paid for by those paying social security taxes into the social security trust fund. Inasmuch as those who receive the "minimum" have not paid taxes sufficient to cover their benefits, the load is thrown on those who are already paying taxes sufficient to cover their benefits. In short, most of the minimum social security benefits provided by the bill represents welfare—not tax paid insurance. It should, therefore, be paid out of the general fund of the Treasury. Moreover, as welfare, the payments should be made on the basis of need, taking into account other resources of the recipient.

The bill makes no attempt to order our priorities. Instead, it contains all major social security proposals—the 10 percent increase, the increase to $100 in the minimum, and coverage of catastrophic illness and disease. It would seem that the single most urgent action to be taken—one that should have been taken long ago, before medicare and medicaid—is coverage of catastrophic illness and disease. Also, it is only fair to bring social security benefits into line with increases in the cost of living which have occurred since benefits were last increased. It would appear that this would fall somewhere between the 5 percent increase provided by the House and the 10 percent increase provided by the Senate Finance Committee. The increase in the "minimum"—particularly the $1.5 billion needed to go beyond a cost-of-living increase—is inequitable and excessive.

Those who would be paying the bill should know what lies in store for them. The tax base would be raised from $7,800 to $9,000, with the following rate changes:

TAX RATES ON BOTH EMPLOYER AND EMPLOYEE

[In percent]

Year	Under present law	Under the bill	Under the bill without $100 minimum
1970	4.8		
1971	5.2	5.2	5.1
1972	5.2	5.5	5.4
1973–74	5.65	5.6	5.5
1975	5.65	6.35	6.35
1976–79	5.7	6.35	6.35
1980–85	5.8	7.0	7.0

TAX RATES ON SELF-EMPLOYED PERSONS

1970	6.9		
1971	7.5	7.4	7.3
1972	7.5	7.7	7.6
1973–74	7.65	7.8	7.7
1975	7.65	[1] 8.35	[1] 8.35
1976–79	7.7	[1] 8.35	[1] 8.35
1980–85	7.8	[1] 8.5	[1] 8.5

[1] Additional costs of cash benefits are borne by employer-employee tax revenue because of 7 percent limitation on tax for underwriting cash benefits. Excess over 7 percent is attributable to financing medicare and catastrophic coverage.

Applying these various rates to the "maximum" tax base of $7,800 (under present law) and $9,000 under the bill would result in the following maximum tax:

MAXIMUM TAX ON BOTH EMPLOYER AND EMPLOYEE

Year	Under present law	Under the bill	Under the bill without $100 minimum
1970	$374.40		
1971	405.60	$468.00	$459.00
1972	405.60	495.00	486.00
1973–74	440.70	504.00	495.00
1975	440.70	571.50	571.50
1976–79	444.60	571.50	571.50
1980–85	452.40	630.00	630.00

MAXIMUM TAX ON SELF-EMPLOYED PERSONS

1970	$538.20		
1971	585.00	$666.00	$657.00
1972	585.00	693.00	684.00
1973–74	596.70	702.00	693.00
1975	596.70	751.50	751.50
1976–79	600.60	751.50	751.50
1980–85	608.40	765.00	765.00

Although I believe that most people will be willing to pay increased taxes to assure cost-of-living increases in social security benefits, a reasonable degree of medicare coverage, and coverage under the catastrophic illness and disease program, we have reached the point of a taxpayers' revolt against tax increases which are used to fund low-priority and unnecessary, untimely, or inequitable social security benefits.

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

Mr. LONG. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished chairman of the committee.

I think it would be redundant to repeat what has been so beautifully said already about the great job that has been done by our chairman and by the staff.

I do want to take this occasion to note the great contribution that has been made by the distinguished Senator from Delaware, who is retiring by his own choice from the Senate and this committee at this time.

I suspect that I share the feelings that everyone else in the country does over the failure of this Congress to get into welfare reform, but I am not certain at all that some of the proposals that were made would have achieved the objectives that were spelled out by the President of the United States—objectives to which I suspect we could all subscribe.

In this regard, I think the contribution that has been made by our great and loved friend from Delaware (Mr. WILLIAMS) may be significant as the years roll along.

I am especially appreciative of the great job our chairman has done in hearing this matter, in seeing that everyone who had a contribution to make was given an opportunity to have his say.

I hope that as we approach the coming session we will be able to examine more closely and to know better beforehand what would result from some proposals we have had before us before they become the law of the land.

I remember what the distinguished Senator from Connecticut (Mr. RIBICOFF) said some time ago, when he said had he known then what he now knows, he would never have recommended the medicare and medicaid programs that this country now has without their first having been tried out. I say we ought to take this same approach with family assistance.

I thank the distinguished Senator for yielding to me.

Mr. LONG. I thank the distinguished Senator. May I say, in support of what the Senator has said, the distinguished Senator from Delaware brought to the attention of the committee, and also the Senate, a great number of problems that had not been considered when the bill passed the House of Representatives. I am positive that when act on a more comprehensive welfare reform, the deep insight that was evidenced by the Senator from Delaware will reflect itself in our final decision. As he pointed out, while the plan sent to us looked pretty good on paper if one considered only the cash assistance program, if you looked at the other social welfare programs—food stamps, public housing, medicaid, and child care—in terms of a welfare recipient's incentive to work, then a plan had seemed on its face to make good sense did not make much sense at all. It was that contribution from the Senator from Delaware which I think will eventually result in a better bill.

I would like to mention also the arduous and long hours put in by the distinguished senior Senator from New Mexico (Mr. ANDERSON), whose time spent in the committee room I believe was exceeded only by that of the Senator from Delaware and, perhaps that of the chairman. Senator ANDERSON put in a fantastic number of hours working on this bill, and I am sure all the members of the committee appreciate his contributions to it. He is not present at this moment, but I certainly want to mention the fine contributions he made.

I yield to the distinguished Senator from Arizona (Mr. FANNIN).

Mr. FANNIN. Mr. President, I join in the tributes being paid to our distinguished chairman for his fairness, equity, and patience. I concur in the accolades that have been paid to him. I especially want to extend my thanks to him for the consideration he gave me and the many proposals I made, especially on the conservation of jobs in this Nation of ours, his ability to relate to those problems, with the long experience he has had on the committee.

I certainly commend him on the way he handles the committee, keeping everything moving along, being patient, and still stern in his desire and demand that we accomplish our objectives. I, too, commend him for the teamwork he has displayed, working with the distinguished senior Senator from Delaware, who will now be leaving us, which will be a great loss. A very fine person will be taking over as the ranking minority member. We have had the complete cooperation of the Senator from Utah (Mr. BENNETT) throughout the years he has been on the committee.

We have a tremendous task ahead, and our chairman recognizes that. I know he has agreed to have hearings on several subjects in which I am involved and which I think are very important to the future of the Nation. His recognition of the problems has been of great help to us.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. GOODELL. Mr. President, will the Senator yield me a few minutes?

Mr. MANSFIELD. I yield to the Senator from New York.

THE NEED FOR FAMILY ASSISTANCE

Mr. GOODELL. Mr. President, the fictional honorable Senator from South Carolina, Seab Cooley, well summed up in one of Allen Drury's works the problems which we have had with the family assistance plan and social security. He said that—

> What worries me about that office [is that] . . . a man can get to balancing so many things against so many other things that sometimes all he does is balance. He never does really move . . . forward; he's too busy balancing, worrying about what this [one's] going to say or that [one's] going to think. Sometimes you have to go straight ahead and say damn them all. . . .

Indeed, we have balanced. We have balanced so judiciously, so protractedly, so well that we have balanced ourselves—although necessarily so, at this point—right out of the opportunity to pass the most crucial domestic legislation which the President has proposed. In so procrastinating, in so abandoning once again the wretched and the poor, we have confirmed their notion that they are, in Ralph Ellison's term, the "invisible men" of this Nation—those whose needs it is all too easy and costless to consign to the ambiguity of the next Congress, or to oblivion.

There is, Mr. President, a dangerous new phenomenon in this country, a phenomenon which is perpetuated and augmented by our failure to pass the family assistance plan this session. As there was in ancient Rome at the beginnings of its decline, there is here an underclass of, if you will, "proles"—a forgotten class of people to whom few respond, and about whose anxieties fewer still truly

care. One sees it in the ghettos in my State—the vacant stare, sometimes the feral stare, of the teenager on the stoop who has dropped out of school, whose family is in dissolution, who has perceived only poverty and passivity all his life—the child and the teenager who has a past which he wishes only to repress, a future he has no motivation to affect. This is the child who becomes addicted to narcotics because he feels the need to withdraw from the only painful world he knows, the child who believes—in a vicious self-fulfilling prophecy—that he will grow up to become nothing, the child who can have no dreams.

As bad as our present welfare crisis is, it will become far, far worse, for this underclass without hope will mature to swell the ranks of the impoverished, to swell the ranks of those who look upon what we see as the comfortable world through windows of despair. They will have children, and their children will have children, in a seemingly never-ending cycle that expands the number of those who are shut out from society as we know it.

Although the President's family assistance plan is inadequate in many respects, it does represent the first step toward meeting that crisis of hopelessness. It is a step toward providing that underclass with the social services requisite to bringing its members to the point that they can begin to be motivated to improve themselves. It is a step toward dignifying and helping the working poor, those yeomen of the American mythology who are now motivated to make it within our free enterprise labor market, and who are suffering for their efforts to meet our ideal and to feed their children.

FAP represents, in short, a beginning toward restoration of the impoverished into the society of those who can dream, those who dare hope, those who will find the strength to risk job training and work. It is a beginning toward a transformation of that underclass into members of society.

It is, then, essential that the next Congress make up its collective mind, for good and all, that we cannot in conscience allow hunger in this land, that we cannot allow 5-year-olds in the ghettoes of Harlem and the hollows of Appalachia to attend miserable schools in clothes so tattered as to leave them exposed to the cold of the elements and the derision of their classmates. An income supplementation bill must be passed in the next Congress, and I pledge—albeit from the sidelines—to do my best to help bring that about.

Our existing welfare system has failed us. It discriminates among the poor, aiding some and ignoring others in a wholly arbitrary fashion. It provides incentives only for idleness, dependence and family breakup. Designed to save money instead of saving people, it tragically ends by doing neither.

The present welfare structure leaves the amount of welfare benefits wholly to the discretion of the States and localities. This has created a crazy patchwork, in which benefit levels range from a high of $70 per month per child in New York City to the shockingly low figure of $10 per month per child in Mississippi. Those States and localities that take their responsibilities seriously are penalized by high welfare costs and growing welfare rolls. Those States and localities that do not, are rewarded by low welfare costs and succeed in exporting their poor.

The principal existing Federal welfare program—known as aid to families with dependent children—is designed only to assist the unemployed mother who heads a family. It penalizes families that are intact. It ignores the working poor—those eight million men, women and children who live in families headed by someone who works all year-round, but does not earn a livable income. These are the families that have accepted American middle-class values, that have tried to follow the vision of Horatio Alger, but have not received their just due.

The President's family assistance plan would for the first time, create a federally established and federally financed minimum welfare assistance level. It thus recognizes the essential principle that a destitute person should be entitled to a nationally prescribed minimum of assistance, no matter where he lives. And it recognizes that only the Federal Government has the fiscal resources to carry the main burden of welfare aid—that States and localities simply lack the resources to provide for their poor.

The President's plan is designed to aid intact families and families of the working poor. It makes a family's need the criterion of assistance. Instead of penalizing those that work, it creates new work incentives.

These are far-reaching reforms. They are reforms of which the President can be justly proud.

I am convinced, however, that still more must be done if we are to create a welfare system that is workable and fair. Welfare reform must build upon the President's proposals; it must, however, go beyond them to create a true system of national income maintenance.

The administration proposal sets the Federal minimum welfare payment at $1,600 per year for a family of four.

This is inadequate.

It is less than all but five of the poorest States are providing under the present State-operated welfare system.

It is less than half of the amount the Social Security Administration defines as the "poverty level"—which is just under $3,800 per year for a family of four.

This $3,755 "poverty level" figure constitutes the barest minimum needed for subsistence. It is calculated on the basis of the Department of Agriculture's economy food plan which according to the Department, is designed only for temporary emergency use, and is not a reasonable measure of the basic money needs for a good diet.

The respected Bureau of Labor Statistics has calculated a substantially higher poverty line figure—a little over $7,183 per year for a family of four. This is a more realistic estimate of the amount actually needed for subsistence.

I believe we can do no less than to set the Federal minimum welfare payment at the $3,744 line. That is not a generous figure. It is barely an adequate one. By going below this amount, there is clear danger of consigning welfare families to malnutrition, inadequate clothing, slum housing—in short, to the most serious poverty and want.

The administration plan covers only families with minor children. Childless couples and single individuals are excluded. Still more incongruous, a couple with a 17-year-old child would lose their benefits the day the child turns 18.

There is no justification for such discrimination among the poor. All persons below the poverty line should be eligible for assistance, regardless of their marital or family status.

The Federal Government should assume the administration of the welfare system and operate it on the pattern of the social security system—with written applications, automatic mailing of payments, and audit or spot checks for enforcement purposes. State welfare agencies should be relieved of their role as welfare policemen, and allowed to perform their proper function of counseling and assisting needy individuals.

The administration bill requires all welfare recipients, save those specifically exempt, to accept "suitable" work whenever available, as determined by the Labor Department.

This is as impractical as it is offensive.

A similar work requirement has been in existence under the work incentive program—WIN—of 1967, and it has been a spectacular failure. Of 600,000 welfare recipients that qualified under this program by last year, only 100,000 were referred for mandatory work or training—and only 30,000, or 5 percent, actually found jobs or training programs.

In a time of rising unemployment, the prospects of success of a mandatory work requirement are still more remote. Laws cannot force people to take jobs, if jobs are not available.

A work requirement is demeaning. If job openings are perceived as being worthwhile in terms of the income and the personal satisfactions they provide, they will be filled voluntarily. If not, then we should be changing the nature of the openings available. Dead-end jobs inevitably result in high turnover, and no legal compulsion can change that fact.

Above all, a work requirement punishes children for the actions of their parents. It means that if the mother refuses to work, the child will receive no aid, will be brought up in the direst poverty, and will ultimately become incapable of working himself.

In January 1968, President Johnson appointed a distinguished President's Commission on Income Maintenance, under the chairmanship of Ben Heineman, president of Chicago's Northwest Industries. That Commission, with the aid of an outstanding staff, reported to President Nixon in November 1969. Its report was headlined in the New York Times, and hailed by virtually every academic expert in the field. Unfortunately, the report appeared after the administration plan had already been made public. As a result, it was shelved by the administration and never introduced in the Congress.

The plan proposed by the Heineman Commission seeks the administration's objectives while meeting the shortcomings of the administration bill.

The Heineman plan moves toward a minimum income maintenance standard based on the poverty level. It eliminates the categorical structure of the present system, and provides universal coverage of all impoverished persons. It Federalizes the welfare system and abandons the discredited inquisitorial concept of welfare. It provides a work incentive by allowing recipients to retain a part of their earned income, without imposing a harsh and unrealistic work requirement.

The Heineman proposal provides for an annual adjustment of Federal income maintenance levels, designed to reflect the changes in the cost of living. It eliminates the food stamp program—with its demeaning separate food lines at grocery stores—and substitutes the cash needed to buy food. It provides emergency relief for individuals struck by personal disasters and makes special provisions for those who earn seasonally eratic incomes. None of these features are found in the administration bill.

The Heineman Commission recommended that the Federal minimum welfare payment initially set at $2,400 per year for a family of four. This is somewhat less than halfway between the administration's clearly inadequate payment of $1,600 per year and the Social Security Administration's poverty line figure of just below $3,800 per year.

The $2,400 figure is an arbitrary one, arrived by the Commission in recognition of budgetary constraints. The Commission recommended that the Federal minimum payment be increased to the poverty level by 1975.

It is my belief that any income supplementation plan passed should provide an immediate maintenance level at the poverty line, and should establish as a national objective income maintenance at the Bureau of Labor Statistics' low-cost subsistence line.

It should, moreover, include cost-of-living escalator based upon the annual movement of this country's national median family income, which is currently calculated by the Bureau of the Census. In accordance with the proposal of the distinguished Senator from Iowa (Mr. MILLER), it should incorporate variations pursuant to regional cost-of-living fluctuations, which can be ascertained by the Bureau of Labor Statistics.

It should, finally, incorporate authorization for payments to family units to meet special needs of a unique or nonrecurring nature, which needs are caused by temporary or unusual circumstances that render the unit unable to attain or maintain a decent standard of living from the basic allowance. Those needs should include but not be limited to the cost of clothing and furniture needed to bring the unit up to a decent standard at the time that it or any member thereof first becomes eligible for payments, the costs of replacing losses caused by fire, flood, or other natural disaster, and the costs of meeting special medical, nutritional, or instructional needs which are not provided for under title XIX of the Social Security Act.

In accordance with the incentive suggested by both the Heineman Commission and the President's family assistance plan, a work incentive ought to be provided by a negatively graduated marginal tax rate for all those whose income is below the BLS low-cost level. If such a work incentive is sufficiently negatively graduated—if the tax rate concentrates upon providing a 50-percent incentive to those below the poverty line and provides a steeply decreasing incentive to those above that line but below the BLS line—then the cost of an income supplementation plan similar to that of the Heineman Commission comes out approximately equal to to that of the family assistance plan.

It is essential, moreover, that any income maintenance plan passed provide sufficient day care services so that those recipients who choose to work or to train for a job are not faced with the constraint of a child left alone in the home. That day care should not be simply custodial, of no benefit to the child, but should mandatorialy include an educational component pursuant to the minimum standard of the Federal interagency day care requirements.

CONCLUSION

Karl Jaspers has said that,

There exists between human beings—because they are human beings—a solidarity through which everyone shares the responsibility for every injustice that is committed in the world. If I do not do all I can to prevent it, I share the guilt.

The decision which we as a Nation will have to make in the next 2 years is whether, under the guise of budgetary constraints, we will accept either no income maintenance legislation at all or an administration bill that is admittedly inadequate to sustain living human beings, or whether we will shoot for the ideal. We have become afraid, in this country, to really care, because to really care has become unfashionable and rather laughable; and also, of course, because to really care would impose upon us the necessity of acting in support of the things we really care for. It is incumbent upon us, nonetheless, to refuse to step back, to be cool, to accept the argument that there is just so much we can do. It is our responsibility, indeed, to care and to shoot for the ideal, to fulfill that sacred obligation of which Jaspers speaks.

Despite the interest group conflicts, notwithstanding the political implications of passage or nonpassage of the family assistance plan, the fact is that there is an underclass of the impoverished in this country, and that we have responsibility not only as legislators, but also as human beings, to do something about it. Let me conclude with the very opposite feelings of a fictional presidential candidate in Eugene Burdick's "The 480":

We are told constantly, endlessly until we sicken of it, that "things are complicated" . . . Of course things are complicated. We can, if we wish, infatuate ourselves with complexity. We can fondle it in our hands, adore it, dazzle ourselves with it. But, in the end, we must realize that every situation can be reduced to a simple decision: *Do we act or not?* If yes, in what ways?

I trust that in the coming Congress we will get to work early. I commend all those who worked on this complicated legislation, and I trust that next year there will be established the principle of income maintenance, the principle that we are going to take care of the wretched and the poor in this country. I commend to my colleagues that task, because I know they all desire this. It is going to be difficult.

I hope next year my colleagues will not find themselves trying to deal with it in December. If they deal with it in January, by December they should have a final product.

Mr. SCOTT. Mr. President, I yield to the Senator from Tennessee (Mr. BAKER) such time as he may desire.

Mr. BAKER. Mr. President, I shall not unduly delay the Senate. I have a series of questions I would like to put to the distinguished chairman, if I might. I am not a member of the Finance Committee. I have followed the debate and the colloquy with interest during the several days this bill has been under consideration.

I might say, as a preliminary to the first question, that I approve the thrust and the design of the bill, especially as it relates to the automatic benefit increase section. A matter of parenthetical interest to the junior Senator from Tennessee is that this is an item that I have long favored, and in fact espoused 4 years ago when I ran for the Senate.

I put this question to the distinguished chairman: It has been said that the automatic benefit increase provided for in the social security bill could be financed without increasing the contribution rates, provided the benefit and contribution base is increased as wages rise. Why then does the Senate bill provide for increasing both the base and the contribution rate so that each increase would meet one-half of the cost?

Mr. LONG. The committee felt that since this would be a benefit increase to be shared by all categories of beneficiaries, whether of low, middle, or high income, all should share in paying for it, since all would share in the benefits.

In the alternative, if we raised the revenues solely by raising the amount of wages taxed, then those at the upper end of the earnings range would have to pay the entire expenses of the benefit increases, even though workers at lower earning levels would share in the increased benefits.

The committee decided that since the increased benefits would be available throughout the whole spectrum of the income levels, all income levels should pay for at least part of the cost of the increase.

Mr. BAKER. I thank the chairman for that explanation, with which I entirely agree.

I might comment that a good bit has been said, in the course of our consideration of the social security bill, about the progressive nature of certain taxes, especially the graduated Federal income tax, and the so-called regressive nature of certain other taxes, more often than not citing the fixed rate tax applicable to social security.

I would point out, if I may, that the social security tax is progressive in a sense, in that as the rate goes up, there is a tendency to shift the burden to higher income taxpayers, while, in the alter-

native, if we left the rate at the lower level, it would tend to fix the burden on another group of taxpayers.

So it would appear to me that the combination approach that the committee adopted, and which the chairman has now explained, has all of the attributes of a tax of a progressive nature, rather than a regressive one. I am happy to hear it explained in that way.

A further question: Would not the Senate provision for financing the automatic increases, to a greater extent than the provision passed by the House, delegate authority to the Secretary of HEW, in effect, to levy taxes?

Mr. LONG. The provision the Finance Committee adopted would place upon the Secretary of Health, Education, and Welfare a purely ministerial function. All discretion would be left to Congress. If an increase in benefits was triggered when the cost of living went up by more than 3 percent, the Secretary would simply do the arithmetic necessary to calculate the amount that taxes would have to be increased just enough to pay for the full cost of the increased benefits, no more and no less.

Mr. BAKER. May I then be reassured on the proposition that the most able staff of the Committee on Finance is thoroughly convinced, as the chairman must be, that there is no abrogation of the taxing authority of Congress implied in this discretion given to the HEW Secretary?

Mr. LONG. That is right. All we have done here is give him the responsibility of doing the arithmetic necessary to arrive at the amount of the tax increase.

Mr. BAKER. I ask the Senator further, while I have expressed my wholehearted agreement with the concept of cost-of-living increases as the cost of living goes up, which we hope will not continue indefinitely, might it not also be said that there is no fair way to have cost-of-living increases except by this route?

Mr. LONG. The committee so felt, and that is why this is what the committee recommended.

Mr. BAKER. Mr. President, is not the effect of the bill now pending before the Senate to obligate future Congresses to either reduce taxes or raise benefits more than the cost of living?

Mr. LONG. No more so than under the present law. The committee bill recognizes that Congress may very well stay ahead of the cost of living by passing increases which would make it unnecessary for the automatic increases to go into effect. If the Congress fails to act on benefit increases, then automatic increases would go into effect.

Mr. BAKER. Mr. President, the next question, and the last one, I might add, that I shall put to the distinguished chairman, if he will grant me the additional time and attention, would be this: Under this bill as now presented to the Senate, how high will the rates and the base be in some future year in the medium distant future, say at the end of this century, in the year 2000, when today's young workers will be in their midfifties and beyond? Can the Senator give some speculation on that aspect of the bill's impact?

Mr. LONG. I would have to respond that there is no real way of knowing, because basic and fundamental to the committee provision is the principle that it will be Congress that will continue to determine how much in the way of increases in social security would be justified under a given set of circumstances.

In other words, it would be anticipated that in the future, the Congress would want to continue to increase social security benefits.

If that is the case, we would expect that Congress would vote to pay for the higher benefits. I know it is certainly the view of the majority of the committee at this time, and I would hope future Congresses would take the same attitude, that with respect to the basic social security program, we would always pay for the program with taxes that would be levied. But I cannot say how much benefits will be increased in the future or what the level of taxable earnings will be—that would merely be speculation.

Mr. BAKER. I recall a colloquy the distinguished chairman of the Committee on Finance had on this floor about a year ago, in which he pointed out, and I agreed with him, that the basic social security program can easily be financed out of social security taxes on the base as fixed from time to time, but the real question is whether Congress will use social security as a vehicle by which other social services are delivered, whereupon we may be faced with the problem of deciding whether other sources than the social security tax should be used to finance the cost of their delivery. Is that basically correct?

Mr. LONG. Yes.

Mr. BAKER. Mr. President, I think the committee has done an excellent job on a difficult problem, providing a bill that moves forward in the field of automatic increases in response to requirements of the economy. The need is not predictable for the year 2000, or the year 1972, for that matter, but I think it is worthy of the favorable consideration of the Senate, and I wish, in these closing moments of the debate, to commend the committee and the staff for having done an excellent job.

Mr. LONG. I thank the Senator.

It was my judgment, Mr. President, that the Senate would pass as much of this committee bill as the Senate felt it could agree with, and could bring it to a vote, and that is what we have done. The committee recommended a $10 billion bill, and the Senate is passing a $7.5 billion bill.

Mr. DOLE. Mr. President, will the Senator from Louisiana yield to me?

Mr. MANSFIELD. The Senator has control of the time on that side.

Mr. BAKER. Mr. President, the minority leader yielded me such time as I might require. I do not see him on the floor. I am happy to yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I shall take very little time. I had a number of amendments which were not offered because hearings had not been held on them. I should like, very briefly, to discuss at least two amendments and make them a part of the RECORD, so that they might be studied by Members of this body and by others who may be interested.

One of the defects in the present Social Security Act is the fact that there is unequal application of the program to handicapped children under age 18.

Presently, this age group is precluded under aid to permanently and totally disabled. Neither are provisions adequate for benefits for disabled children under the aid to families with dependent children program since eligiblity is based on the economic status of the parent rather than the existence of disability in the child.

Children with severely handicapping conditions require extensive and costly services beyond the means of many families and an excessive financial burden to most. There are the never-ending surgeries, specialists, nurses, braces, orthopedic shoes, wheelchairs, walkers, standing tables, bath tables, hearing aids, glasses, special education, and transportation needs—to mention only some of the extra costs involved.

Also, health insurance is difficult if not impossible to attain to cover these special needs of the seriously disabled child.

Mr. President, this amendment, in the event it may be considered at some future time on some subsequent bill, would further assist many handicapped children to receive the considerable care they require.

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

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

Insert on page 499, between lines 17 and 18, the following:

"DISABLED INDIVIDUALS UNDER AGE 18 ELIGIBLE FOR AID UNDER TITLES XIV AND XVI

"SEC. 571. (a) (1) Title XIV of the Social Security Act is amended by striking out, wherever it appears, the phrase 'eighteen years of age and older'.

"(2) Section 1402 (a) (8) of such Act is amended by striking out 'and' at the end of clause (C), by striking out the semicolon at the end of clause (D) and inserting in lieu thereof ', and', and by adding at the end of clause (D), as so amended, the following: '(E) with respect to a disabled individual under eighteen years of age who is claiming aid, the State agency shall also take into consideration the income and resources of such individual's parents, guardian, or other person legally responsible for the support of such individual;'

"(b) (1) Title XVI of such Act is amended by striking out, wherever it appears, the phrase 'are 18 years of age or over and'.

"(2) Section 1602 (a) (14) of such Act is amended by striking out 'and' at the end of subparagraph (C), striking out the semicolon at the end of subparagraph (D) and inserting in lieu thereof ', and', and by adding after subparagraph (D) the following new subparagraph:

"'(E) if such individual is under 18 years of age and is not blind but is disabled, the State agency shall also take into consideration the income and resources of such individual's parents, guardian, or other person legally responsible for the support of such individual;'.

"(c) The amendments made by this section shall be effective July 1, 1971."

Mr. DOLE. Mr. President, another change that has been called to my attention has to do with terminology.

As Senators may know, last year the President appointed a task force on the physically handicapped. On that task force were many outstanding Americans, and they made many excellent recommendations. I have reviewed the recommendations made by the President's task force on the physically handicapped, and one of the recommendations made by the task force would amend title 5 of the Social Security Act by replacing the term "crippled children" with "handicapped children." According to the study of the task force, the term "crippled child" or "crippled children" as traditionally used in governmental terms is too limited in its meaning and has undesirable connotations, and present day services to crippled children should include far more impairment categories than ever before.

I was advised by HEW that although this amendment might appear to be desirable, they would oppose it if it were offered. Therefore, I chose not to offer the amendment. According to HEW officials, this would require changes by many States in State laws and would perhaps cause some undue hardship at the outset. But it has been studied carefully, and it is the understanding of the Senator from Kansas that it will be given serious consideration at a future time.

Mr. President, I ask unanimous consent to have the proposed amendment printed at this point in the RECORD.

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

On page 540, after line 7 insert the following:

"CRIPPLED CHILDREN'S PROGRAM—REDESIGNATED HANDICAPPED CHILDREN'S PROGRAM

"SEC. 614. Title V of the Social Security Act is amended by striking out the word 'crippled' wherever it appears and substituting in lieu thereof 'handicapped'."

Mr. DOLE. Mr. President, I should like to ask the chairman of the committee a question. Under the bill as approved by the Senate, what will be the excess of income over outgo for the social security program as a whole over the next 5 years?

Mr. LONG. Mr. President, I say to the Senator that I regret that I do not have it at this moment, but I can refer him to page 45 of our committee print, of my opening statement, which contained a chart which shows that there will be a surplus of nearly $5 billion over the first 3 years under the original committee bill. I regret that I do not have it available for 5 years. But the surplus will be correspondingly increased for the next 2 years.

Mr. DOLE. Then, the second part of that question: How much would the trust funds have increased at the end of 5 years as compared with increases under the present law?

Mr. LONG. Mr. President, I have submitted this chart elsewhere—it compares income and outgo for 1971, 1972, and 1973 under both bills—but I ask unanimous consent that the chart I hold in my hand be printed at this point in the RECORD.

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

PROGRESS OF THE OLD-AGE AND SURVIVORS INSURANCE, DISABILITY INSURANCE, HOSPITAL INSURANCE, AND CATASTROPHIC INSURANCE TRUST FUNDS, COMBINED, UNDER PRESENT LAW AND UNDER FINANCE COMMITTEE BILL, 1971–73

[Cash basis; in billions of dollars]

Period	Income		Outgo		Net increase in funds		Assets, end of period	
	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill	Present law	Committee bill
Fiscal year 1972	49.0	52.8	43.0	50.5	6.0	2.3	51.0	44.9
Calendar year—								
1971	47.0	49.0	41.7	47.6	5.3	1.3	46.3	42.3
1972	50.0	55.3	44.2	53.3	5.7	1.9	52.0	44.2
1973	56.9	59.7	46.7	56.9	10.2	2.8	62.2	47.0

Mr. LONG. The chart shows that, under present law, the trust fund in fiscal year 1972 would rise to $51 billion, and under the original committee bill it would rise to $44.9 billion. In calendar 1971, under the present law, $46 billion; under the committee bill, $42.3 billion. In calendar 1972, under present law, $52 billion; under the committee bill, $44.2 billion. In calender 1973, under the present law, $62.2 billion; under the committee bill, $47 billion. Of course, there have been certain modifications during floor consideration of the committee bill which would change those figures to some degree.

It was the judgment of the majority on the committee that present law did not adequately balance income and outgo in the next few years—too much money would come in for the benefits being paid—and we thought of this as a surplus, which we regarded to some degree as constituting overfinancing that could be used to pay for further benefits.

Mr. DOLE. Then, in the event that there were automatic benefit increases of 3 percent each year over the next 5 years, there still would be some surplus in the trust fund?

Mr. LONG. The figures I have placed in the RECORD assume no increase in the cost of living. If the cost of living goes up, and benefits go up, the tax that is collected goes up. When the cost of living goes up more than 3 percent, the triggered increases go into effect, and the tax rates go up, as well as the tax base, so that there is just enough additional income to pay for all that. Thus, the amount being accumulated in the fund should remain about the same even if there should be a cost-of-living benefit increase.

Mr. DOLE. I thank the chairman of the committee, and I thank the Senator from Tennessee.

Mr. YARBOROUGH. Mr. President, after a lengthy and thorough debate on the omnibus Social Security Act, H.R. 17550, I am very pleased that we were able in these final hours to save those portions of the bill that will directly benefit the lives of countless numbers of senior citizens who depend on social security and medicare to survive.

The ever-increasing cost of living hits hardest those people in our society who must depend on a fixed income, such as social security, to live. These people, who are trapped by rising prices, are forced to sit helplessly by and watch the purchasing power of their small monthly income dwindle away under the crush of runaway inflation. These older citizens have no one but Congress to turn to for help in these troubled times. The bill that the Senate has been able to agree to shows that we are not going to let these citizens down.

The most significant features of this bill are:

First. The 10-percent increase in social security benefits. Under the Senate version of the bill, the over 26 million beneficiaries of social security will receive a 10-percent increase in benefits. This increase will be effective as of January 1971 and will be paid to the people in April. The bill also sets a new minimum benefit that can be paid of $100. The original House version of H.R. 17550 would have increased social security benefits by only 5 percent and provided a minimum of benefits of $67.20. The Senate version of this bill is a much superior measure and I hope the House will agree to the Senate's amendments.

Second. The increase in the amount a social security beneficiary can earn and still receive his full benefits. The present law sets a ceiling of $1,680 a year on the amount that a retired person can earn and still draw full social security benefits. This unreasonable work limitation has forced many productive and creative citizens into a state of forced idleness. Furthermore, this limitation, which is far below the poverty line, locks many of our older citizens into the low-income bracket with no way of escape. Under this bill, Congress is taking the first step toward remedying this situation by increasing the income limitation from $1,680 to $2,000. I supported an increase to $3,200, which I believe would have been more reasonable. However, this increase included in H.R. 17550 does offer a small measure of relief to our senior citizens who wish to work beyond the age of 65.

Mr. President, I also commend the Senate Finance Committee for including in the bill my amendment to authorize the Secretary of Health, Education, and Welfare to waive, in cases involving small rural hospitals, the requirement that a hospital furnish 24-hour registered professional nursing services in order to participate in the medicare and medicaid programs

Under the present law, a hospital will not be qualified to provide medicare services if it does not maintain a registered professional nurse on duty around the clock 24 hours a day. This requirement has imposed extreme hardships on the small rural hospitals and clinics and the people they serve. Many rural hospitals have been unable to find enough registered nurses who will move to the rural areas to meet this 24-hour requirebenefit of a hospital near their homes. leaving many of our citizens without the and clinics have been forced to close, ment. As a result, many small hospitals

In short, this limitation in the medicare law is having the unfortunate effect of denying many of the citizens of rural America hospital care. My amendment is designed to rectify this unjust situation without lowering the standards for health care.

Under my amendment, a rural hospital could obtain a waiver of the 24-hour registered nurse requirement:

First, the hospital has made, and is continuing to make, a good faith effort to meet the registered nurse requirement, but cannot because of nursing personnel shortage,

Second, the hospital is located in an area where hospital facilities are in short supply, and

Third, the denial of medicare services at such a hospital will seriously limit the availability of hospital care to the people of the area. This amendment is a carefully drawn measure which will provide relief only in cases of true hardship. I am very pleased that the Finance Committee has recognized the urgent need for this provision. It will insure that medicare and medicaid benefits will be available to the people of rural America.

Mr. President, in closing, I wish to commend the distinguished chairman of the Senate Finance Committee, Senator LONG, and the members of his committee for their hard work on this bill and their willingness to work out a compromise so that our senior citizens can benefit from this bill. I urge all of my colleagues to give this bill their full support.

Mr. McGOVERN. Mr. President, last night we spent many hours debating and voting on provisions of the Social Security Act, and expected to complete our business rapidly this morning. In particular a number of us were concerned that certain provisions, which we regarded as restrictive, be dropped from the welfare programs. Senator HARRIS, you will recall, drafted a quick amendment to delete those sections of title V which we believed would impose a hardship on the poor.

At the time our concern was concentrated on deleting those provisions and inadvertently, I failed to notice that another harmful provision was retained. In raising the payments for the aged, the blind, and the disabled to $130 for an individual and $200 for a couple, the Finance Committee had also removed those individuals receiving cash assistance from eligibility for food assistance.

Mr. President, the eligibility standards for food assistance for such aged, blind, and disabled individuals are already that high or higher in 34 States. Five of the remaining States have no food stamp program.

I believe we should not arbitrarily deny food assistance to those who are poor because they are so old, so blind, or so disabled that they are unable to provide for themselves. The parliamentary agreement does not permit another amendment to be considered now. But perhaps this deficiency can be corrected by legislative action next year. In any event, if there is any decrease in the cash allowances as provided by the Senate social security bill, I shall definitely make an all-out effort to add food stamp eligibility for the aged, the blind, and the disabled.

Mr. FANNIN. Mr. President, in the Congress over the past months we have been debating the pros and cons of our foreign trade policy.

To say the least, we have not reached a consensus on the path we should follow.

Consequently, this matter of foreign trade policy will be a subject of vital importance in the 92d Congress. Early in the coming session I will introduce legislation to achieve the goals I will discuss here today.

The trade bill of 1970 will die as of January 3, but the problem of the American job drain is growing daily.

This statement is a continuation of my discussion over the months as to the threat to this Nation of inflation, unemployment, and the loss of the stable dollar.

Our foreign trade policy is very much intertwined with all of these threats to our Nation's future.

At this time I will delve a little deeper into the causes of our foreign trade problems and try to present a better perspective on the dangerous road we are travelling.

What is the economic theory underlying our foreign trade policy?

Theory tells us that in order to supply consumers with the greatest variety and highest quality of goods at the lowest possible prices we must encourage competition from all sources, including imports. Almost any economist can construct a theoretical model of the world economy which demonstrates that under a free trade policy the country as a whole will be better off than under any other system.

Accordingly, any law which restricts the importation of goods runs counter to this theory, and in the world of theoretical economists is, therefore, bad.

Of course, the economist's model assumes complete mobility of the factors of production. This means that when imports increase and as a result a competing domestic producer loses customers and closes his plant in Arizona, his workers are immediately able to find new jobs in a different factory, located perhaps in California. In practice, of course, it may be very difficult for the workers to find new jobs in another locality, even assuming that they are willing to leave their homes, their schools, and their friends to do it.

The economist's model also usually assumes that the plant owner, too, is able to switch his investment from his now defunct plant to a more profitable line of business.

Moreover, some of these plants are located in relatively small communities which will themselves prosper or decline as the plant does. These producers and workers argue that at some point the benefit the consumers receive from imports is outweighed by the damage which is done to them.

Not only are these changes much more difficult in practice than they are assumed to be in theory, but also in practice the domestic producers who compete with imports argue that they are asked to accept a much greater burden than the theory would suppose.

Further, when we experience inflation we must ask our workers and investors to work harder, faster, and more efficiently to keep up with their foreign competitors whose costs are not rising as fast.

When our workers and investors cannot keep up, then we ask them to change their line of work. Most other countries would take care of at least a portion of this problem by adjusting their exchange rate.

Finally, the theoretical model assumes that all trade will be fairly conducted; that a foreign government will not subsidize exports to the United States; and that foreign firms, protected in their home markets, will not dump excess production at disruptively low prices in this country. In practice, however, we know that this is not the case.

Many foreign governments appear to subsidize exports, and dumping appears to be becoming an increasingly serious problem. When these practices are permitted, domestic producers and workers bear an unfair burden.

When the investments and jobs of the domestic producers and workers are threatened, they become insecure and they demand action of some sort from their government. More often than not they are joined by others who merely imagine that they are threatened, or who know they are not, but who hope to profit from whatever action is taken to assist those actually hurt.

THE PROCEDURES FOR REDRESS OF DOMESTIC PRODUCERS' GRIEVANCES

Our foreign trade legislation has represented a compromise between the interests of consumers and importers on the one hand, and domestic producers and workers on the other.

Originally, of course, Congress, which has the constitutional power to lay and collect duties as well as the power to regulate commerce with foreign countries, attempted to act directly on each imported article, periodically hearing testimony from importers and domestic producers, and then setting what it considered to be an equitable tariff.

Direct congressional action on tariffs proved unsatisfactory for a number of reasons. Logrolling produced a multitude of protectionist legislation because in order to get one bill passed a Member must agree to restrict imports of many others. In addition, it was almost impossible to develop accurate information about the various products involved in the bills because a great deal of misleading and conflicting information was distributed by the interested parties.

Direct congressional action on tariffs was also unsatisfactory because it was relatively inflexible. A tariff action might be taken with the needs of the moment in mind, and although the needs might change drastically in the short term, it was not possible to alter the legislation until the next time Congress got around to working on the Tariff Act, frequently a period of 4 to 8 years.

Finally, it also produced violent swings from high tariffs to low tariffs and back again, first in one direction and

then in another, as leadership of the Congress switched.

All in all, direct congressional action on tariffs was not a very happy experience for either the Congress or the country, and toward the end of the 19th century Congress began to try to avoid direct action by enacting general legislation which an administrative agency was directed to apply to particular cases. Among the first problems Congress attempted to deal with administratively was the problem of foreign export subsidies.

Every tariff act since 1897 has contained a countervailing duty provision which provides in substance that when goods are imported into the United States, the production or exportation of which was encouraged by a subsidy will be imposed. The Secretary of the Treasury is to determine whether the imported goods have been subsidized and, if so, is required to impose the appropriate countervailing duty.

In effect, then, when a Congressman's constituent complains that he is being ruined by subsidized imports, the Congressman should be able to refer him to the Treasury Department, secure in the knowledge that if the constituent's allegations are true, his grievances will be effectively redressed, and if they are not, this fact will be discovered and no action will be necessary.

In fact, however, it appears that the Treasury Department has rarely invoked this provision, and then only after a lengthy process which would have discouraged all but the most determined complainants. By 1923 a leading authority on the subject was able to state that the Treasury had not applied the provision as broadly as Supreme Court decisions indicated it should be. Rather, the Treasury had followed so much of the decisions' as authorized it to do what it wanted, and had disregarded the remainder of the decisions. There is no indication that this has changed.

The next foreign trade problem which Congress attempted to have settled administratively was dumping. The antidumping Act was enacted in 1921. In substance, it provides for additional duties to be imposed on goods which are sold at a lower price in the United States than in their country or origin, if these sales injure a domestic industry. Under this act the Treasury Department determines whether such sales are causing injury to domestic industry.

In effect, then, Congress enacted a general dumping law so that it would not have to become involved in specific dumping cases. Theoretically, when a constituent comes to a Congressman and complains about dumped imports the Congressman can refer him to the Treasury Department and the Tariff Commission, confident that the problem will be equitably resolved there.

I think it is fair to say, however, that from the domestic producer's standpoint the Antidumping Act has not been well enforced.

Not only is a domestic complainant only rarely successful in an antidumping action, but also it seems to take forever to get his complaint processed through the administrative machinery.

The shortest time which elapsed between the filing of the complaint with the Treasury Department and the imposition of dumping duties was 11 months. The longest period was 2 years and 3 months, and the average time elapsed was more than a year and 8 months. This is not the kind of prompt action which is likely to send a complainant home satisfied that he has been fairly treated.

In 1922 Congress again tried to delegate a portion of its import problems to administrative agencies by enacting section 337 of the Tariff Act, which for want of a better name has been called the International Unfair Competition Act. In substance, this act provides a remedy for domestic producers who feel that they are being injured by the unfair methods of competition of foreign producers.

Complaints are to be filed with the Tariff Commission which is to conduct an investigation, and is to report to the President its findings of whether the statute has been violated. If a violation is found, the President may, but is not required to, order that the customs authorities exclude the offending goods from entry into the United States.

The record of actions under this provision is similarly disappointing to Congress and to domestic producers. From 1926 until 1968—a period of 32 years—no affirmative action was taken under this statute. Domestic producers who felt they were injured by the unfair practices of their foreign competitors finally gave up filing compaints because the chances of success were worse than slim—they were nonexistent.

Despite this record of administrative failure to enforce legislation designed to protect the domestic producer, Congress, in the escape clause legislation, again placed the fate of domestic interests in the hands of an administrative agency.

Prior to 1962, the escape clause provided in substance, that if the United States reduces its tariffs in a trade agreement, and as a result imports increase to the point where a domestic industry is seriously injured, then the United States could raise the tariff again. The statute required the Tariff Commission to investigate complaints of domestic producers and left final action up to the President.

Under this arrangement the escape clause was invoked 15 times during the period 1950 to 1961—roughly 1½ times per year.

In the Trade Expansion Act of 1962 Congress enacted a sweeping reorganization of the escape clause procedure. Pre-1962 legislation had provided only for tariff or quota relief, but the 1962 act provides that the President may instead grant trade adjustment assistance—that is, loans, tax relief, and technical assistance to the injured industry—in order to assist the domestic producers and workers to get into another line of endeavor.

The enactment of the trade adjustment provisions of the 1962 act was the most important foreign trade event in decades. If such a remedy could be made effective, and could be made acceptable to the domestic interests which compete with imports, the rewards for the country as a whole would be enormous. The Government could permit the consumer to retain the benefits of low-priced imports without fear that the interests of domestic firms and workers need suffer.

Foreign producers and importers would need not deny in every case that no domestic interest has been injured by imports, because the result of the Commission's injury finding might well be adjustment assistance rather than import restrictions, and the importer would therefore not be affected by the Government action. There would be, of course, some costs to the taxpayer, but these should be far outweighed by gains to consumers.

Despite the fact that adjustment assistance promised to help all and hurt none, the expectations of Congress and the Nation were once again disappointed.

In 27 cases brought to the Tariff Commission between 1962 and 1968, not a single petitioner could obtain a favorable decision. No industry, no firm, and no group of workers received one penny of assistance during this period.

To be sure, the early cases were not the best, and the wording of the statute created problems. But the fact remains that industries, firms, and especially workers, found that in the end no assistance was forthcoming.

Let us now look at the total situation presented by these four statutes designed to protect the domestic producer against injury from imports.

Domestic interests who feel they are injured by foreign subsidies have been told to go to the Treasury Department. But it is clear that the countervailing duty law is not being enforced in any substantial way.

Those injured by dumped imports have been told to go to the Treasury Department and the Tariff Commission, but it takes nearly 2 years to process such a complaint, and relief has been granted only in a few cases during the latest 16-year period.

Those who feel they are injured by unfair methods of competition have been told to go to the Tariff Commission, but only one applicant has gotten relief in the past 34 years.

Finally, those injured as a result of tariff reductions have been told to go to the Tariff Commission, but from 1962 to 1968 no relief was granted to anyone.

Congress in general has wisely refrained from dealing with individual cases. Instead it has established general principles and has delegated the day-to-day application of the acts to administrative agencies or to the executive branch.

But the agencies must enforce these laws if this process is to work. These laws are important escape valves for pressures which are nearly always present.

Frequently, there is no time limit on an agency's consideration of a complaint, and so it literally studies the problem to death. Sometimes the agency adopts an unrealistic interpretation of the statute so that no one can qualify for relief and there is no appeal from the agency decision. Whatever the reason, the result is always the same—no relief. And the re-

sult of 20 years of no relief could also have been predicted—the parties who believe they have been injured return to Congress seeking relief directly from the body charged with the constitutional duty to regulate foreign commerce.

When the problem is placed in this perspective, we need not look far for one of the causes of what is sometimes referred to as the current wave of protectionism in the Congress. It is a simple response by representatives of people who have been denied relief by administrative machinery they no longer trust.

The most unfortunate part of it all is that the enforcement of these statutes would have cost the importing community and the country so little. What legitimate importer needs to resort to unfair methods of competition or a foreign subsidy, or dumping practices in order to compete in the U.S. market? Yet, this is all that is prohibited by three of the laws discussed here.

These are not protectionist laws—they merely regulate unfair practices—yet the failure to enforce them can produce protectionist legislation. If relief is not available through the relatively flexible laws applied by the administrative agencies, Congress and domestic interests may well feel they have no alternative but to enact rigid protectionist legislation.

Looking to the future, I believe that those who favor a liberal trade policy should learn from this experience. In the future we should work to strengthen the administrative machinery for granting relief from import competition in appropriate cases.

In the next session of Congress, I will introduce legislation to put our foreign trade regulatory laws on the same basis as those that regulate domestic trade.

Administrative authority would be placed in one jurisdiction, with power to make findings and direct that dumping and countervailing duties be imposed where justified.

Further, the regulatory agency would have authority to effectively enjoin unfair methods of competition by excluding imports as provided in section 337 of the Tariff Act, and to recommend mandatory action under the Trade Expansion Act of 1962.

To make the administrative procedures responsive and to eliminate uncertainties, a time limit will be placed by the legislation upon the regulatory body for decision. And for fairness, judicial review is provided for both negative and affirmative decisions.

In addition, I intend to offer legislation to broaden and strengthen section 801 of the Revenue Act of 1916, 15 U.S.C. 72, which was copied in part from the Sherman Act of 1916, 2 years after passage of the Clayton Act, and apparently was intended to be a part of the antitrust laws condemning as it does price discrimination injurious to competition and providing a criminal sanction as well as civil redress. The Antidumping Act of 1921 suffers from several defects, and if not corrected, section 801 of the Revenue Act of 1916 would provide an effective remedy against the unfair trade practice of dumping.

The proposed legislation would in no way impede or restrict legitimate imports nor provide protection to any domestic industry against legitimate competition, or deprive any foreign industry of any fair competitive advantage which it might otherwise have. The results of the bill merely foreclose to the foreign supplier any unfair advantage which he might derive from a subsidy, price cutting or other activities which have been recognized as unfair trade practices in the country for many years and which have been universally condemned.

The U.S. unfair trade practice laws prohibit domestic producers from certain unfair competitive conduct. The proposed bill would do no more than impose a similar prohibition against such unfair practices when they are engaged in by foreign competitors.

We should keep in mind that the alternative to strong enforcement of the laws designed to protect domestic interests will not be freer trade; it will be a much more rigid and cruder form of restriction which will be imposed through other channels. In short, strict enforcement of these laws is not only consistent with a liberal trade policy, it is essential to it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LONG. I yield back the remainder of my time.

Mr. BAKER. Mr. President, I have nothing further in this respect at this time. I observe, however, that the distinguished minority leader and assistant minority leader are not in the Chamber at this time.

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. GRIFFIN. 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. GRIFFIN. Mr. President, I yield back the remaining time on this side.

The PRESIDING OFFICER. All remaining time has been yielded back.

The bill having been read the third time, the question is, Shall it pass?

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

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Tennessee (Mr. GORE), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from New Mexico (Mr. MONTOYA), and the Senator from Michigan (Mr. HART) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), and the Senator from Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. MUNDT), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 81, nays 0, as follows:

[No. 455 Leg.]

YEAS—81

Aiken	Griffin	Nelson
Allen	Gurney	Packwood
Allott	Hansen	Pastore
Baker	Harris	Pearson
Bayh	Hartke	Pell
Bellmon	Holland	Percy
Bennett	Hruska	Prouty
Bible	Hughes	Proxmire
Boggs	Jackson	Randolph
Brooke	Javits	Ribicoff
Byrd, Va.	Jordan, N.C.	Saxbe
Byrd, W. Va.	Jordan, Idaho	Schweiker
Cannon	Kennedy	Scott
Case	Long	Smith
Church	Magnuson	Sparkman
Cook	Mansfield	Spong
Cooper	Mathias	Stennis
Cotton	McClellan	Stevens
Cranston	McGee	Stevenson
Curtis	McGovern	Symington
Dole	McIntyre	Talmadge
Ellender	Metcalf	Thurmond
Ervin	Miller	Tydings
Fannin	Mondale	Williams, N.J.
Fulbright	Moss	Yarborough
Goodell	Murphy	Young, N. Dak.
Gravel	Muskie	Young, Ohio

NAYS—0

NOT VOTING—19

Anderson	Goldwater	Montoya
Burdick	Gore	Mundt
Dodd	Hart	Russell
Dominick	Hatfield	Tower
Eagleton	Hollings	Williams, Del.
Eastland	Inouye	
Fong	McCarthy	

So the bill (H.R. 17550) was passed.

Mr. LONG. Mr. President, I ask unanimous consent that the bill H.R. 17550 be printed with the amendment of the Senate numbered, and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make all necessary technical and clerical changes and corrections, including corrections in section, subsection, and so forth, designations, and cross references thereto.

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

Mr. LONG. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. BELLMON) appointed by Mr. LONG, Mr. TALMADGE, Mr. RIBICOFF, Mr. WILLIAMS of Delaware, and Mr. BENNETT conferees on the part of the Senate.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971—CONFERENCE REPORT

Mr. BIBLE. Mr. President, I move that the Senate proceed to the consideration of the conference report on the Department of Transportation appropriations bill.

The PRESIDING OFFICER (Mr. BELLMON). The report will be stated by title.

The assistant legislative clerk read as follows:

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. 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 is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to and the Senate resumed the consideration of the conference report.

Mr. STENNIS. Mr. President, a point of order. The Senate is not in order. It is impossible to hear. This is a most important matter.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BIBLE. Mr. President, the motion, as I understand it, is not debatable. The pending business is the adoption or rejection of the conference report.

The PRESIDING OFFICER. The Senator is correct.

Mr. BIBLE. Mr. President, I shall be very brief. We have heard much about the transportation bill and even more about the SST portion of it. I was privileged to be chairman of the Senate conferees and, although many unkind things may have been said at the time something was being worked out, about me and others, I felt that I did my duty as I saw it. I was very proud of the conference report that we brought back. I would only say this, that actually the amount involved for the SST in the bill that came to us was $290 million. The Senate, it is true, by a vote of 52 to 41, rejected the House allowance for the SST. So we were then in conference on that item. I will leave out the other items in conference, as we are all very well aware that this is the only problem in this whole area.

We had a conference. We did the best we could under the circumstances. We found the House to be extremely unyielding, and the final result was that we came up with a figure of $210 million. This is not a compromise between zero and $290 million. It is the difference between $105 million, which was provided by the continuing resolution plus the $105 million that we had added and the $80 million or $90 million additional that the House had wanted, a difference of $80 million.

We brought that back thinking this was the best solution we could reach. We urged its adoption. Since that time there has been considerable discussion pro and con about this particular SST item.

I make no apologies for my own actions in this matter. I did the best I could to try to resolve it.

We had seven conferees. Five of the seven signed the transportation appropriations bill conference report with the exception of the SST item. Two refused to sign on that item. So we had a total of five of the seven signing the conference report including the SST provision.

I am not going to talk at length. The majority leader has laid out his plans with his customary fairness and has indicated exactly what he proposes to do.

I am perfectly willing to go back to conference again and see if we can better our position. I thought I read the House loud and clear. I thought the message came back loud and clear, namely, that the attitude of our counterparts in the House is unyielding and very adamant.

Obviously, with just the next few days remaining to the end of the year, whether we like it or not, we must complete our labors. Something must be done. We are not going to yield in any event on funds for the Coast Guard for a period of time or for the Air Traffic Control people for a period of time or for any of the many other items. We are going to go back and ask for a further conference. We are going to go back and attempt to see if we can work something out.

I am not optimistic. We have worked on this matter long and hard in constant conferences and have talked with our counterparts on the House side.

I indicated that my impression was that there was an unyielding attitude on the part of the House conferees. I think what I say is true. So this leaves us with very few options remaining at this particular stage.

There were attempts for cloture on two different occasions. Both attempts failed, as the record shows. As people know, they did not get a bare majority, for whatever reasons, and they were varied. To get cloture, it would take a switch of some 16 votes in the last cloture vote, assuming that the same number of people participated. There did not seem to be a practical solution to the problem. Some have traditionally opposed cloture. I think that in the final analysis they would have voted for cloture if it looked as if there were a possibility of breaking this impasse by doing so.

That looked to be an impossible method of working out the problem. So we are now back with the conference report once again.

I mention that the majority leader plans to make a motion to table. Although I will do so reluctantly, it is my intention to vote to support the motion to table so that it can result in a further conference with the hope, dim as it seems and dim as I think it is, that out of the next conference there may come some daylight. It is pretty dark now.

I think the only option left is a continuing resolution.

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

Mr. STENNIS. Mr. President, will the Presiding Officer clear the well so that we can hear?

Mr. SCOTT. Mr. President, I had said earlier that I thought I would vote against a motion to table. I know what the Senator has in mind. I believe it will expedite the whole proceedings if we can table the conference report. I will therefore vote to table.

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

Mr. BIBLE. I yield.

Mr. CASE. Mr. President, I thank the chairman of the subcommittee for yielding. I want to say that, disagreeing with him in regard to the SST, nevertheless I fully appreciate his feelings about following the leadership that the Senator from Montana is about to demonstrate.

I think that as a result of this whole proceeding what we will find out is that the Senate has acted in a way that is far superior to the archaic and crippling and hampering rules that the Senate has permitted itself to be encased in over the years. I look for a good solution as a result of the whole business.

I think that this will represent not an example of the Senate having stultified itself, but of the Senate having reached above what normally might be expected under its hampering rules.

Mr. BIBLE. Mr. President, I appreciate the optimistic outlook of the Senator from New Jersey. I share that optimism as we go into the new year.

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

Mr. BIBLE. I yield.

Mr. STENNIS. Mr. President, in view of the circumstances and wanting to expedite this bill if possible, I am going to vote for the motion to table, although I believe that we have a report here that meets with the approval of a majority of the Senate by a respectable margin. The good faith of everyone is certainly evident. I regret exceedingly that we have not gotten to a vote on this matter.

If we can come back with a report, I hope we might be able to vote on that. I hope that all Senators will put their shoulders to the wheel and let us get a vote of some kind before the expiration of this Congress. I hope that we will give this matter our greatest effort. Let us vote on the matter up or down, one way or the other.

Mr. BIBLE. I might say to the distinguished Senator from Mississippi that that is what I suggested the first time I spoke on this matter. I said I was willing to vote on the matter that day, tomorrow, or the next day. I am still trying to figure out ways to get to a vote.

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

Mr. BIBLE. I yield.

Mr. COTTON. I find myself in a little bit of a quandary. I understand the distinguished Senator who is in charge of the bill is willing to vote to table, even though he feels the result obtained by the conferees is satisfactory. I can understand the reasons.

I am a little worried, however, when I hear the distinguished minority leader and the distinguished Senator from Mississippi say they are going to vote to table. If we vote today to table and if because of the anxiety and understandable reasons the vote is overwhelming, I hope the House is not going to be deceived by that vote and think a strong vote to table indicates a stronger opposition to the SST in the Senate than there is.

I would dislike casting a vote to table which might be interpreted as meaning

I am not for continuing the SST, because I am.

Mr. BIBLE. I understand what the Senator has said and there are many other Senators who feel the same way. But we are faced with this dilemma. I do not think the House will misinterpret what we do here. They usually understand why we do what we do.

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

Mr. BIBLE. I yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I have just become aware as I came into the Chamber of the action that was just announced to me by the distinguished chairman of the committee. I want to say he has done a magnificent job not only during the conference and since, but with the bill itself.

I would like to remind Senators of a few things that are in the bill, including mass transportation, FAA, personnel to man the towers, money to buy navigational equipment, and funds to install and operate the equipment for air navigation. If we have to go to the continuing resolution the amount for mass transportation will drop from $600 million a year to $150 million a year. In addition, there are funds in the bill for highways, railway safety funds, railroad research funds. There has been too much talk about one thing without enough emphasis on the others.

Now, just a word about the situation in which we find ourselves. I direct my remarks to the distinguished Senator from New Hampshire. I know the Senator from Nevada tried to get a vote on this matter and I have been anxious to vote on it also.

Therefore, since we have been told, I assume, by the majority leader that he is going to move to table, this presents us each with a dilemma.

The chairman stated his position. I do not ask anyone to vote in any way, except I underscore the fact that those who vote to table may be only taking a chance that perhaps there will be something to come out of the conference. But I wish to say frankly, as the Senator from Colorado, who has taken an interest in this whole area during his term in the Senate, as a matter of principle I feel I must vote against the motion to table although I respect the reasons it is made. Perhaps in the long run it may be good, but I could not vote for it.

Mr. BIBLE. Mr. President, I understand the Senator's position. I hope in the long run something is accomplished. We have only 4 days remaining.

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

Mr. BIBLE. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I suppose we have reached the point where we have to do something. I compliment the majority leader for trying to take affirmative action, but if I am to be realistic and truthful with my conscience, to me this represents an exercise in futility.

I voted against the SST. I refused to sign the conference report insofar as it pertained to the SST.

I have dealt with men all my life. I have been in public life for 35 years and I have been a Member of the Senate for 20 years. Beyond count are the many conferences I have gone to, and I have never known of a time when we hit a stone wall as we did in the last conference. So we are going to go back in again to bang our heads against the same stone wall.

There are those who say that we stayed there too short a time. I do not know how long we must stay there. I would hope the Senate would send somebody else in my place, someone who thinks he would be more effective than I have tried to be. It was an impossible task. Some of our conferees were in favor of the SST, but they did carry the conviction of the Senate to that conference. As much as I was disappointed in the result, it was the only alternative we could accept at the time.

Now we are going to go back again. If someone would tell me how long we are supposed to stay there and take that abuse before we come back and say we did an honest and creditable job, I would like to know. That is what we are confronted with. If anyone says we did not do an honest and creditable job he just is not telling the truth. We labored and we labored hard and we came back with what we thought was the best solution even though it did not satisfy me.

I know how certain people feel. I said I was going to vote against the conference report if it came up for a vote because I do not believe we should continue the SST any longer, but there are those who disagree with me.

If anyone thinks that when we go back to that conference that the House is going to eat crow, I do not see it. We are all grown up and mature enough to know that does not happen.

I know the majority leader is going to do something, and I will go along with him. But I repeat that I wish you would choose someone in my place.

Mr. BIBLE. Mr. President, I appreciate the position of the Senator from Rhode Island. The Senator does not have to make apologies for his actions.

Mr. MANSFIELD. May I say that no Senator need make any apology. Unfortunately, we are faced with a situation which must be concluded in some way or another in a 5-day period. I do not question the motives of any Senator, whether he is for or against the SST, because I daresay if I were on the other side I would be just as enthusiastic and determined in my advocacy of that which I do not favor at the present time. So I hope we do not convey the idea that anyone is suspect. I am sure we all recognize there are only a certain number of procedures the leadership can follow to bring this matter to a head.

It appears to me the vote to table the conference report will be almost unanimous. As far as I am concerned I would just as soon have a standing vote or a voice vote because it will not be indicative, if what I hear is correct, of the real feelings of the Senate, but perhaps the following results will.

I yield now to the distinguished Senator from Washington.

Mr. MAGNUSON. Mr. President, I, too, have been in many conferences on many bills. When the Senate's position dollarwise on a certain bill is one amount and the House position is another amount, that is the reason why we have conferences. That is why this legislative body provided for conferences. If both sides would always be adamant in their positions, then we would never get a money bill passed at all. A conference is to compromise differences in the bill.

We got the House to come down to $80 million. We were talking about a money figure for the SST. This was an honest conference. I have no apologies about being a conferee. I have said many times I did not start the SST. President Kennedy started the SST, and the Senator from Colorado and I have been working on it for a long, long time, in the cause of American technological superiority, which America is rapidly losing, and I do not like to see it. It happened after fierce competition that about 50 percent of the contract will be completed in the State of Washington, but I did not know that at the beginning. To repeat, it was an honest conference. The Senator from Nevada and I and others on the Appropriations Committee heard scores of witnesses. Senators who hear the witnesses have to be on the conference, Senators who know something about the subject.

I point out that the mass transit program is also involved in the bill; so is the Coast Guard. So are other items that conferees know something about. This is what a conference is all about. One side cannot be adamant in their position; particularly, when we are dealing with money.

So I have no apologies to make for what we did. I think this is the only way a bill could have been obtained. If both Houses were going to insist on a certain position moneywise on any appropriation bill, we would never get a bill passed. That is what a conference is all about.

As the Senator from Mississippi (Mr. STENNIS) pointed out, this was practically split down the middle. Was it not?

Mr STENNIS. Yes.

Mr. MAGNUSON. So I do not think there is anything wrong with it.

I am going to join the Senator from Montana in his motion to table. Apparently the Senate wants to go back and sit down in a second conference. We can do that. We cannot instruct the conferees on continuing resolutions, because that is not part of this conference. Money bills are money bills.

So I am going to join in the motion to table although I do it only as a procedural matter, not as a reflection on my view of the substantive issue. I hope we do not have to have rollcalls on it, because I think the sense of the Senate is established here.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I shall be very brief. I address myself to the Senate in connection with the proposed motion of the Senator from Montana to table the conference report.

First, I want to say that, in my judgment, the conferees have done the best

possible job they could do under the circumstances. We know that from the fact that the Senators who were opposed to the SST and who served on the conference committee have said so. I think the statement of the able senior Senator from Rhode Island (Mr. PASTORE) speaks for itself. You do not have to stay day after day to understand what the House conferees mean when they say "No."

Knowing the Senators who participated in the conference, I think anyone who is objective about this matter can honestly say, can only say, that the conferees on the Senate side came to the conclusion that there was no other alternative.

I want to compliment particularly the acting chairman of the subcommittee, the senior Senator from Nevada, for all of his efforts in connection with the conference.

The situation now before the Senate is that we have 5 days before this Congress expires. Everything expires at noon on January 3d unless it has been passed by both Houses and sent to the White House. These are the facts of life. These departments and these programs have to continue.

I might point out that the Senate followed this procedure last night, I believe at the suggestion of the majority leader, when the Senate voted to table the Department of Defense conference report, sending the conferees back to conference. We are following the same procedure in connection with the pending measure.

The matter before the Senate, in light of the circumstances we find ourselves in, is, as I have said, purely a procedural matter. The conference report must be tabled or voted down as a condition precedent to sending it back to conference for further action. Those are the rules of the Senate. It is that simple.

The opinion has been expressed on this floor that this matter should go back to conference and should be discussed again. Whether that hope or wish will ever come to pass and whether something will come of it, I am doubtful. But I do think that the majority leader has no other alternative nor does the minority leader, under the circumstances, but to arrange for another conference.

Mr. President, I am going to join in the motion to table for purely procedural reasons, to make it possible to go back and see what can come out of conference. Time is running out, and on January 3d, if we do not act responsibly, the Senate will present to the country the worst possible spectacle that we have ever had to face in the Congress of the United States. When the new Congress the 92d Congress, comes into being at 12:01 on Sunday, the House will take at least a week or 2 weeks to organize. The House will not even be able to consider a continuing resolution or legislation until they have organized.

Mr. President, I also understand that an amendment will be offered to rule XXII right after the morning prayer when the Senate convenes in the 92d Congress. If that is so, of course, we will be in an extended debate for a month. This means that none of the programs in the DOT appropriations bill will be funded. None of the employees will be paid. All transportation programs will stop. The airlines and railroads will not operate.

In light of those facts, Mr. President, which the majority leader and the minority leader are aware of, what other course is there but to make another try? If we do not, we will demonstrate to the country the archaic structure of the Senate and the House when a new Congress convenes.

I, therefore, hope that another effort can be made. I hope something will come of it. We have, however, been on notice, and I think it has been expressed very well by the Senator from Rhode Island, the Senator from Mississippi, and the Senator from Colorado, of the adamnant attitude of the House conferees.

Therefore, under the circumstances, Mr. President, I shall vote for the procedural motion in order that the matter will go back to conference for another try.

Mr. MAGNUSON. Mr. President, will the Senator yield me half a minute?

Mr. MANSFIELD. I yield.

Mr. MAGNUSON. Of course, one of the other problems that the conference will face is the fact that we now have a conference report that a majority of the Senate would approve, if allowed to vote. This is a very difficult situation. A majority of the Senate, if allowed to vote, would approve of this conference report. So we are going to have to meet that problem when they ask us that, because there are other important items contained in the bill.

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 concurrent resolution (S. Con. Res. 85) authorizing the printing of additional copies of Senate hearings on U.S. Security Agreements and Commitments Abroad.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1181) to provide for potato and tomato promotion programs.

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 amendments of the House to the bill (S. 1626) to regulate the practice of psychology in the District of Columbia.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H.R. 10482) to authorize the establishment of the Voyageurs National Park in the State of Minnesota, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 10874) to provide for the establishment of the Gulf Islands National Seashore, in the States of Florida and Mississippi, for the recognition of certain historic values at Fort San Carlos, Fort Redoubt, Fort Barrancas, and Fort Pickens in Florida, and Fort Massachusetts in Mississippi, and for other purposes.

The message also announced that the House insisted on its disagreement to the amendments of the Senate to the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes; that the House insisted on the amendments of the House to the amendments of the Senate numbered 14, 26, 31, 49, and 53 to the bill and agreed to the further conference asked by the Senate, and that Mr. MAHON, Mr. SIKES, Mr. WHITTEN, Mr. ANDREWS of Alabama, Mr. FLOOD, Mr. SLACK, Mr. ADDABBO, Mr. RHODES, Mr. DAVIS of Wisconsin, Mr. WYMAN, Mr. CEDERBERG, and Mr. BOW were appointed managers on the part of the House at the further conference.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 322. An act to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes;

H.R. 6562. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to beer, and for other purposes; and

H.R. 19790. An act relating to the income tax treatment of certain sales of real property by a corporation.

The message informed the Senate that the Clerk of the House had been directed to return the bill (H.R. 14984) to provide for the disposition of funds appropriated to pay judgments in favor of the Mississippi Sioux Indians in Indian Claims Commission dockets Nos. 142, 359–363, and for other purposes, with all accompanying papers, to the Senate, in compliance with a request of the Senate.

ENROLLED BILLS SIGNED

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

H.R. 10517. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to distilled spirits, and for other purposes;

H.R. 13493. An act to change the name of certain projects for navigation and other purposes on the Arkansas River;

H.R. 13810. An act for the relief of Lt. Col. Robert L. Poehlein;

H.R. 16745. 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, U.S. vessels in foreign countries;

H.R. 19342. An act to establish and develop the Chesapeake & Ohio Canal National Historical Park, and for other purposes; and

H.R. 19928. An act making supplemental appropriations for the fiscal year ending June 30, 1971, and for other purposes.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred to the Committee on Finance:

H.R. 322. An act to amend the Internal Revenue Code of 1954 to modify the provisions relating to taxes on wagering to insure

the constitutional rights of taxpayers, to facilitate the collection of such taxes, and for other purposes;

H.R. 6562. An act to amend certain provisions of the Internal Revenue Code of 1954 relating to beer, and for other purposes; and

H.R. 19790. An act relating to the income tax treatment of certain sales of real property by a corporation.

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS, 1971—CONFERENCE REPORT

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. MANSFIELD. Mr. President, I move to lay on the table the pending business, the conference report on the Department of Transportation appropriations.

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

The motion was agreed to.

Mr. BIBLE. Mr. President, the motion to lay on the table the conference report has obviously been agreed to. I now move that the Senate insist on its amendments and ask for a further conference with the House of Representatives thereon.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, I wish to offer an instruction.

I move that the Senate conferees be instructed as follows: To maintain the level of appropriations for the Department of Transportation for fiscal year 1971 at the exact level prescribed in the conference report on H.R. 17755 submitted to the Senate on December 16, 1970, with the exception of those funds contained therein for the supersonic transport, upon which the Senate shall further insist on its amendment thereto, and the conferees are authorized to accept the funding for a period to extend not beyond March 30, 1971, at a level not to exceed the rate of $290 million per annum for that period of 3 months or less.

The PRESIDING OFFICER. The clerk will state the instruction.

The assistant legislative clerk read as follows:

I move that the Senate conferees be instructed as follows: To maintain the level of appropriations for the Department of Transportation for fiscal year 1971 at the exact level prescribed in the conference report on H.R. 17755 submitted to the Senate on December 16, 1970, with the exception of those funds contained therein for the supersonic transport, upon which the Senate shall further insist on its amendment thereto, and the conferees are authorized to accept the funding for a period to extend not beyond March 30, 1971, at a level not to exceed the rate of $290 million per annum for that period of 3 months or less.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield to the Senator from North Dakota.

Mr. YOUNG of North Dakota. Mr. President, I merely wish to say that this question of the continuing resolution providing for the level of funding provided in the conference report will run into stiff opposition from the House conferees. They have said that if there was a continuing resolution with respect to the Defense appropriation it would be at last year's appropriation level, and not at the level provided in this year's bill. If we wind up with a continuing resolution on the Transportation bill we would have some serious problems in funding new programs.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from Montana yield for a parliamentary inquiry?

Mr. MANSFIELD. Yes, indeed.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JACKSON. The inquiry relates to that part of the purported instruction as it applies to a continuing resolution. I should like to inquire of the Chair whether that is in fact an instruction, or is it merely a statement of opinion or a hope or wish of the Senate?

The PRESIDING OFFICER. The Chair is informed that there is nothing in the instruction that has anything to do with a continuing resolution. It is rather a proposal as to what should be brought out on the difference between the two Houses.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Does a shutting off of the funds as of March 31 constitute an area within which the conferees can negotiate?

The PRESIDING OFFICER. The Chair is informed that the bill would normally run until June 30, but if they cannot agree on that conclusion, this could be the alternative.

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, will the Chair speak much louder, so we can overcome the resistance?

The PRESIDING OFFICER (Mr. BELLMON). The Chair will state again that bills normally run until June 30, but if it is impossible for the conferees to reach an agreement on that date, then they would have to reach the best compromise they could.

Mr. PASTORE. May I resume my parliamentary inquiry? Are not both Houses agreed that the date should be June 30, by the effect of the bill? Is the date negotiable? Are we not both in agreement that the date should be June 30?

The PRESIDING OFFICER. The Chair informs the Senator that the only thing that can be negotiated is the differences in the bill as passed by the two Houses.

Mr. PASTORE. The differences on the money, or the differences on dates? The dates are the same.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Just a moment. The Chair would state to the Senator from Rhode Island that the only thing before the conference will be the Senate amendments which the two Houses have not been able to agree upon, and the date could be one of those differences.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is the purported instruction within the scope of the conference? The date of June 30, 1971, has been agreed upon by both Houses. There is no dispute between the House of Representatives position and the Senate position on that.

The PRESIDING OFFICER. The Chair is informed that if the conferees can accomplish this kind of a settlement within the disagreement, it is within their jurisdiction.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana has the floor.

Mr. MANSFIELD. Mr. President, the Senator from Mississippi has raised a question, I believe.

Mr. STENNIS. I just did not hear the last part of the Chair's announcement. If there was no agreement as to time, and what was the rest of the statement?

The PRESIDING OFFICER. The Chair is informed that if there was no amendment in the conference with regard to the date, then they would not have the jurisdiction to consider that aspect.

Mr. MANSFIELD. Mr. President, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, on the second page of the resolution, the language beginning on line 2, "With the exception of the funding for the supersonic transport, which shall be continued at the level of $290 million"——

The PRESIDING OFFICER. Will the Senator suspend? I believe he is reading the wrong language.

Mr. PROXMIRE. I beg the Chair's pardon. The resolution is as stated on the mimeographed page, rather than the printed version?

Mr. MANSFIELD. The Senator is correct.

Mr. PROXMIRE. Fine; then I have no further question.

Mr. MAGNUSON. Mr. President, I send to the desk a substitute for the proposed instruction.

The PRESIDING OFFICER. The substitute motion will be stated.

The assistant legislative clerk read as follows:

I move that the conferees be instructed to insist that the differences between the two Houses on H.R. 17755 be reported in disagreement.

Mr. MAGNUSON. Mr. President, the only purpose of this motion is to set the stage for the House and the Senate to consider and adopt a continuing resolution to fund Department of Transportation appropriations until March 30, 1971.

I realize that the matter of a continuing resolution is not a part of a conference, and any motion here to instruct the conferees to go back and insist on a

continuing resolution would be subject to a point of order.

The continuing resolution also would have to originate in the House of Representatives, if it is to be sustained. So if we are going to have a continuing resolution—and I hope we will not need one—it really sets the stage so that the House of Representatives and the Senate could consider the adoption of a continuing resolution, we want some legis- but the House has to originate it.

My only purpose is that if we have to go—and I hope we will not—to a continuing resolution, we want some legislative history on it over here. That is my only purpose. We have done this many times. Simply sending a conference report back in disagreement does not change the things we have talked about here today at all.

Mr. ALLOTT. Mr. President, will the Senator yield? I wonder if we could have his motion read again.

Mr. MAGNUSON. Yes. I hope the Chair will read louder.

The PRESIDING OFFICER. The clerk will restate the amendment.

The assistant legislative clerk read as follows:

In lieu of the language proposed by Mr. Mansfield, insert the following:

Mr. President, I move that the conferees be instructed to insist that the differences between the two Houses on H.R. 17755 be reported in disagreement.

Mr. PROXMIRE. Mr. President, as I understand it, the effect of the Magnuson substitute, if it passes, would be that there would be no indication on the part of the Senate with respect to the disposition of this matter. The conferees would simply go back to conference and then discuss and come up with whatever they thought was a proper solution.

If I understood the purpose of the majority leader, it was to find out whether there was a majority opinion in the Senate as to how this might be agreed on—not that it would have any binding effect necessarily on the conferees. Perhaps it would have, in terms of instructions; but, at any rate, an opinion would be expressed on the basis of a vote in the Senate. If the Magnuson motion should be accepted as a substitute, then it is my understanding that there would not be any opinion expressed one way or the other. The conferees then would go back. Would it then be the opinion of the Senator from Washington that then they would report to the Senate and then to the House on the disagreement on the SST and we would have an up and down vote on that?

Mr. MAGNUSON. We would have to consider that before they probably agree to a continuing resolution. It sets the stage, and believe me we probably will need a continuing resolution. The stage would be set for a continuing resolution to start in the House. My amendment simply would indicate that the Senate cannot agree and realistically the House should start to consider a continuing resolution. The Senate is in disagreement with the House. The opponents will not let us vote on the conference report. We are in disagreement.

Mr. PROXMIRE. It was my understanding that the purpose of the majority leader in offering his resolution was to find out if there was a majority opinion in the Senate for settling this matter in a way that would not result in further delay in handling the transportation appropriation bill.

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

Mr. MAGNUSON. This does not affect that at all.

Mr. PROXMIRE. I yield.

Mr. FULBRIGHT. As I understood the purpose of the motion of the majority leader, if it were adopted, it would be to disassociate, at least until March, the SST from the remainder of the Department of Transportation appropriation, so that in March there could be an up and down vote on the SST by itself.

In other words, it is perfectly obvious that what has been going on is that the SST proponents are trying to use the interest of all of us in passing the Department of Transportation appropriation to force us to take the SST.

I thought the majority leader's move was designed to allow the Senate to vote on it separately with the transportation appropriation continuing through June, the usual time; but in March we would have an opportunity once again to vote on the merits of the SST, disassociated from the Department of Transportation appropriation.

Mr. PROXMIRE. I have heard that that kind of motion might be offered later by one of the Senators from Washington, but I do not think that is what the senior Senator from Washington is offering now.

Mr. FULBRIGHT. I know that the senior Senator from Washington does not want it disassociated.

Mr. MAGNUSON. Of course, I do not want it disassociated.

Mr. FULBRIGHT. The proponents want the Department of Transportation appropriation to carry the SST, whether we like it or not. That is obviously the purpose.

I am asking a question for the purpose of clarification. Is the effect of the majority leader's motion to give us another chance to express our views on the SST by itself, disassociated from the very many important programs involved in the Department of Transportation appropriation? Is that not the purpose?

Mr. PROXMIRE. I think that is one of the most significant aspects.

Mr. FULBRIGHT. It is the most important.

Mr. PROXMIRE. There are other aspects of the Mansfield proposal that concern me and which would make it very difficult to support this proposal. The separation of the SST funding from the DOT funding by setting an earlier date for expiration of SST funding is the only element of this Mansfield package I support.

Mr. FULBRIGHT. The only incentive in it whatever would be that we would have another opportunity to vote on the SST without it being piggy-backed, so to speak, on the Department of Transportation appropriation bill. Is that the Senator from Wisconsin's understanding of the majority leader's motion?

Mr. PROXMIRE. That is correct. It provides in my view, too much money. It provides too late a date. There are many other objections.

The point that the Senator from Arkansas is making is the central point—that is, that there would be a separate vote next year, sometime in March, strictly on funding the supersonic transport.

Mr. FULBRIGHT. Or before.

Mr. PROXMIRE. Or before; on the SST by itself.

Mr. FULBRIGHT. That is correct.

Mr. PROXMIRE. Not the SST and the Department of Transportation appropriation bill together.

Mr. FULBRIGHT. That is correct.

Mr. PROXMIRE. This would mean that we would not have to hold up any longer funds for the highways, for the airports, and other funds. They would go through the entire fiscal year.

Mr. MAGNUSON. Mr. President——

Mr. FULBRIGHT. Would the Senator allow someone else to have a say? He has had his say.

Mr. MAGNUSON. No; I have not.

Mr. FULBRIGHT. The Senator has had more to say than anyone else.

Would not the effect of the Senator from Washington's motion be to nullify the disassociation which would result from the majority leader's motion?

Mr. PROXMIRE. I am not sure what the senior Senator from Washington has offered. As I understand it, what he is asking us to do is to send the conference report back to the conferees without instructions, except that they should give the House and the Senate an opportunity to vote on those items in disagreement.

I ask the Senator from Washington whether that is his intention.

Mr. MAGNUSON. The instructions are that the Senate disagrees and the House disagrees, and that is the purpose of a conference—to set the stage for a continuing resolution in case we get to the bitter end and there is no appropriation.

I do not know whether we are going to have a new DOT appropriation bill on March 30. Early next year, the House will have to consider further appropriation action if we cannot get a vote on this conference report.

Mr. PROXMIRE. The Senator knows the answer to that.

Mr. MAGNUSON. If all this is in a continuing resolution, if we come to that conclusion, until March 30, then we would have to have either a supplemental, a further continuing resolution or a new DOT appropriation bill for fiscal year 1971 to continue the Department of Transportation.

I do not want to see them fouled up in the end, regardless of my deep interest in the SST. Too much is at stake.

This is the normal action that allows continued spending, if that is the last resort, so-called continuing resolution. We had to do this last year, the Senator will recall, with the HEW bill. We put it over until March or something like that, finally. It was pending at the end of the first session because of President Nixon's threatened and eventual veto.

Mr. PROXMIRE. Is not the effect of the substitute of the Senator from Wash-

ington simply to tell the conferees that they should go back into conference and then report to us on the matters in disagreement? Is that correct?

Mr. MAGNUSON. The real effect is that if they get to a point where we need a continuing resolution, the resolution would continue the funds for the entire Department of Transportation until March 30. I cannot make it any clearer. We are, in essence, asking the House conferees to seek a continuing resolution of the existing deadlock.

Mr. PROXMIRE. I see. Then, the Senator from Arkansas was correct in his interpretation.

Mr. MAGNUSON. I did not say that he was not correct.

Mr. PROXMIRE. It is my view that the Senator from Arkansas is correct, that is the Senator from Washington's substitute would put the SST and all the other DOT appropriation items together in a single package next year, so once a year the SST would be kept afloat by the need for the rest of the Department of Transportation appropriations.

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

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

Mr. PERCY. Mr. President, the distinguished Senator from Washington has said that this is a normal procedure. Perhaps it is a normal procedure. But these are very abnormal times, and I think that probably by resorting to normal procedures for too long now, we find ourselves in this crisis.

If ever I have seen an example of what might be described as "pusillanimous pusseyfooting," this is really it. We are not biting the bullet. We are not making a decision. We are procrastinating. We are delaying and using the same sort of tactics that we have used for months and months and months on this issue so that, in part, Senators would not have to vote on this issue before an election and, therefore, answer to the people.

If we do not have payment for the Coast Guard, if we do not have payment for the air controllers, and if mass transportation funds stop and highway funds stop, let no one misunderstand why the delay was created. It was created months ago, and if we enact this substitute amendment now, we will be using the same kind of tactics.

The time to bite the bullet is now. To be or not to be. You cannot build half an SST or seven-eighths of an SST. The Senate of the United States said "no SST," and we said "none now."

The majority leader has presented a resolution which I find exceedingly generous to the proponents of the SST—another lease on life, another delay. I find it objectionable in many respects, but at least he is trying to bring us to a decision so that we can vote this up or down early next year. I hope the substitute of the Senator from Washington will be decisively put down. I intend to support the tabling motion.

Mr. MAGNUSON. Let us bite the bullet on both.

Mr. MANSFIELD. Mr. President, I have been discussing the possibility with the distinguished chairman of the Subcommittee on Transportation appropriations, the Senator from Mississippi (Mr. STENNIS) and, with his approval, would the distinguished Senator from Wisconsin (Mr. PROXMIRE) be willing to serve on the conference which will result, because of what the Senate will do here this afternoon?

Mr. PROXMIRE. I shall be happy to do whatever the majority leader asks me to do in this connection. I very much appreciate that.

Mr. MANSFIELD. It was a suggestion made by the Senator from Mississippi (Mr. STENNIS). I think, now that——

Mr. PROXMIRE. I would hope, however—it is none of the business of this Senator, and it is presumptuous of me to say this, but I would hope this would not mean that the Senator from Rhode Island (Mr. PASTORE) would be displaced.

Mr. MANSFIELD. No; of course not.

Mr. PASTORE. Send anyone who will bite the bullet. [Laughter.]

Mr. STENNIS. Mr. President, I call for the regular order.

The PRESIDING OFFICER (Mr. BELLMON). The Senate will be in order.

Mr. MANSFIELD. This is in addition. So that I hope a Republican will be included to compensate for the appointment of the distinguished Senator from Wisconsin (Mr. PROXMIRE).

I would anticipate, without question, that the distinguished Senator from Rhode Island (Mr. PASTORE) would stay on that committee and set his feet in cement.

Mr. YOUNG of North Dakota. I hope that the Senator from Montana is not considering me for that post.

Mr. STENNIS. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. I yield.

Mr. STENNIS. Mr. President, we will be very glad to have the Senator from Wisconsin for a conferee [laughter] with the Senator from Wisconsin we would have eight. That could wind up in a number of tie votes perhaps. It just occurs to me that we might need two or three more——

Mr. CASE. The majority leader has just suggested that we have one from each side, and we are prepared to do that.

Mr. STENNIS. I did not yield to the Senator from New Jersey.

Mr. CASE. I thought the Senator wanted the question answered. The majority leader has answered it. He has suggested a Republican and a Democrat, if I may say so to the Senator from Mississippi.

Mr. STENNIS. I understand that suggestion. I had already suggested that we should have two. If we are going to have one additional, that is all right. I am glad the majority leader made that suggestion.

Mr. MANSFIELD. Let me say to the Senate that this is a suggestion of the Senator from Mississippi (Mr. STENNIS) in the first place.

Mr. STENNIS. Mr. President, may I mention the next name, then? The next one on the minority side is the Senator from Kansas. So I hope that——

The PRESIDING OFFICER (Mr. BELLMON). The Chair would advise the Senate that the conferees cannot be appointed until the Senate resolves the problem now before it.

Mr. MANSFIELD. We were just anticipating, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

Mr. PROXMIRE. Mr. President, before we act on that motion, I would like to speak briefly, to say that I did have an amendment to the majority leader's proposal which I intended to press. That amendment would have stricken the $290 million annual rate, and would have provided that the SST be funded at a $184 million annual rate. That is the rate at which it is being funded now, $184 million. It is $100 million above the rate which was appropriated for 1970, which is only $84 million—$85 million.

I also wanted to offer an amendment which, at the same time, would make the date February 15 instead of March 31. It seems to me that 3 months is a very long time and it is not necessary to take that long. I bring up this point and would like Senators to know that those—I have discussed this with other Senators too—who oppose the SST feel that the Mansfield proposal is going very far in providing that the SST would be funded for 3 months, and providing it to be funded for above the current funding rate.

In the event that the amendment of the Senator from Washington should prevail, may I ask a parliamentary question? Mr. President, would the amendment then be subject to further amendment if the Magnuson amendment should prevail?

The PRESIDING OFFICER (Mr. GRAVEL). If the Magnuson amendment is agreed to, it would not be open to further amendment.

Mr. PROXMIRE. Then it must be amended at this point; is that correct?

Mr. MANSFIELD. Mr. President, if the Senator will yield, I send to the desk an addition to the proposal which I made earlier.

The PRESIDING OFFICER. The addition to the proposal will be stated.

The legislative clerk read as follows:

The Senator from Montana modifies his motion by adding at the end thereof the paragraph, number two, failing to agree to report back the amendment on the SST as an amendment in disagreement.

Mr. GRIFFIN. Mr. President, would the clerk read again the proposed motion of the Senator from Washington on which we are about to vote?

Mr. BIBLE. Mr. President, may we have order? It is difficult to figure a way to get out of this parliamentary maze.

The PRESIDING OFFICER. The Senate will please be in order. The clerk will re-read the Magnusor proposition.

The LEGISLATIVE CLERK. The Senator from Washington (Mr. MAGNUSON) moves that the conferees be instructed to insist that the differences between the two Houses on H.R. 17755 be reported in disagreement.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan will state it.

Mr. GRIFFIN. That language seems to say that the conferees are instructed

to report the amendments in disagreement, precluding the opportunity of the conferees from meeting or from reaching an agreement.

The PRESIDING OFFICER (Mr. GRAVEL). It depends on what you are trying to accomplish. They can be instructed in anything that is in conference.

Mr. GRIFFIN. The junior Senator from Michigan seems to understand that language as instructing the conferees to report back in disagreement.

The PRESIDING OFFICER. It should be understood that even if the conferees are so instructed, they are not absolutely bound by those instructions.

Mr. GRIFFIN. Then I shall vote against the motion of the distinguished Senator from Washington, because it seems to me it tells the conferees that they cannot even meet and negotiate.

Mr. ALLOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Colorado will state it.

Mr. ALLOTT. I should like to propose a parliamentary inquiry, that I am not sure what the effect of the amendment of the Senator from Washington to the amendment of the original motion of the majority leader is. I am somewhat of the opinion—I thought that the effect of the amendment of the Senator from Washington was merely to set the stage for a continuing resolution. However, if the effect of that is an instruction to the effect that the conferees shall even concur but shall report back in disagreement, I may misunderstand the situation, but where is all this brave talk about biting the bullet? We are not biting anything. We are just going into a conference. We are just going into a conference and the conferees have been instructed that they are not to do anything. Maybe there is something in the legerdemain of the rules of the Senate that I do not comprehend, so that I wish that the Chair, if he can, would expand on the question that the assistant minority leader asked, because it leaves the rest of us in the same quandary. If it simply sets the stage for a continuing resolution in the event the conferees cannot agree, then I would be wholeheartedly in favor of it, but I am not particularly enthusiastic about going in there with instructions to sit there and just say, "I disagree. I disagree. I disagree. I will come back," because we might as well keep the bill here and decide what we are going to do here.

The PRESIDING OFFICER (Mr. GRAVEL). As the Chair understands the Senator from Colorado's statement, it would require a policy statement from the Chair rather than a parliamentary response.

Mr. ALLOTT. I am sorry, I cannot hear the Chair.

Mr. BIBLE. Mr. President, may we have order, please? It is so hard to hear what is going on.

The PRESIDING OFFICER. The Chair will clear the Chamber of all who are not Senators if we do not have order in the Chamber.

Mr. MURPHY. Mr. President, it is difficult to hear anything back here. I submit that there were five people between the Senator from California and the Chair. I was listening diligently to hear the explanation requested by the Senator from Colorado. I am quite as confused as he is. It is getting to be almost a Gilbert and Sullivan plot. I think it is time we begin to unravel it and get down to cases.

The PRESIDING OFFICER. The Chair thinks the statement of the Senator from California is well taken. There is a great deal of confusion at this point.

The Senator from Colorado is addressing to the Chair a policy question and not a parliamentary inquiry. Therefore the Chair cannot answer the inquiry.

Mr. ALLOTT. Mr. President, I do not conceive that this is a policy question. I have inquired of the Chair specifically whether the effect of the amendment by the Senator from Washington is to set the stage or whether it actually tells the Senate conferees to go to conference and disagree and come back without any action whatever under any circumstances. Is that what the amendment does?

The PRESIDING OFFICER. The language is clear in that respect. As the Chair stated earlier, the conferees are not bound simply by the language.

Mr. STENNIS. Mr. President, the Senate voted almost unanimously to table the conference report. This means another conference. We have had an understanding here that two more Senators would be added as conferees.

I think in the spirit of the Senate, with all due deference to everyone, that at this stage there ought not to be any instructions of any kind.

I would like to see the proposal of the Senator from Washington defeated and the proposal of the Senator from Montana either withdrawn or defeated.

I really think that if it has to be done later, I would not object to instructing them. But I believe that it would put us in a much better condition with the House conferees rather than having an instruction like this. With all deference to the Senator from Montana—and I regard him greatly and appreciate him as much as anyone—this is not an instruction. This is an ultimatum. It says:

> We are going through something we call a conference, but it is not a conference, because on every item in that bill, you must agree. It is just like the conference report is now, except with respect to one matter. On that one matter, you must do so and so.

That is an ultimatum to the House.

If we still call it a conference, it says that we have to confer but they have to do what we say. That is an ultimatum to the conferees.

I do not object to that if it becomes necessary. But if we go back into another conference, let us obey the spirit of what we have done by tabling and appointing additional conferees. Those Senators may bring some fine suggestions with them. But with this hung around the necks of the conferees as an insult to the House, we will be backing into trouble and will not only be here beyond the term, but will also be here to judgment day trying to make them change their minds.

Mr. President, I yield the floor.

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Mr. President, if the motion of the Senator from Washington is adopted, will the conference report be subject to further debate?

The PRESIDING OFFICER. After the conference report returns to the Chamber, it will be subject to further debate.

Mr. FULBRIGHT. Mr. President, I mean today.

As I understand it, the motion of the Senator from Washington is a substitute for the motion of the majority leader.

The PRESIDING OFFICER. If the amendment is agreed to, there would be no further amendments, but it would not shut off debate. Of course, the Senate could continue to discuss the conference report before the conferees are appointed.

Mr. JACKSON. Mr. President, will the Senator yield for a parliamentary inquiry to help clarify the matter?

Mr. FULBRIGHT. Mr. President, I am trying to clarify the matter. I will appreciate the assistance of the Senator from Washington.

Mr. JACKSON. Mr. President, is it not a fact that the conference report has been tabled?

The PRESIDING OFFICER. The Senator is correct.

Mr. JACKSON. And the only matter pending is a motion to instruct the conferees, with the pending substitute to that motion.

The PRESIDING OFFICER. There is one amendment in disagreement which has not been disposed of.

Mr. JACKSON. But all of this is subject, of course, to debate.

The PRESIDING OFFICER. The Senator is correct. Until the conferees have been named, the debate can continue.

Mr. FULBRIGHT. Mr. President, with all deference to the Senator from Washington, his description of this as being an ordinary, normal and usual procedure comes as a great surprise to me. I do not recall any particular procedure quite like this, and I have only been here for 26 years.

Mr. MAGNUSON. Mr. President, I have been here for 26½ years. So we are even.

Mr. FULBRIGHT. Mr. President, it is not quite that long. There is only a difference of 2 weeks.

I come back to my original point. The Senator from Washington carried the principal load on this question of the SST. It seems to me that the central point which I thought the Senator from Montana was seeking was to give the Senate an opportunity one more time, because of the highly controversial nature of this issue, to vote again. I have no objection to that.

I would welcome an opportunity for the Senate to vote on the SST alone, standing on its own merits. If the Senate really wishes to approve the SST by itself, without its being dragged along by all of these other questions, I would certainly accept it. I would not try to stall or delay the matter.

I think the Senator from Wisconsin, after the vote on and the history of this legislation, is certainly entitled—and I

think I am also—to see the Senate vote up or down on the SST.

This is not just $290 million that we are voting for. We are really voting for $2 billion or $3 billion. We do not know how much. When we think of the traditional overruns that occur in this area, we are not voting for $290 million. We do not know how much we are voting for. It has been guessed as being anywhere from $1 billion to $3 billion or $4 billion. We must consider our recent experiences with the C–5A and the F–111's that we have been reading about recently. Regarding the F–111, the senior Senator from Arkansas has reminded us about that unfelicitous affair. It is naturally and undoubtedly going to be a very large amount, considering inflation. It would not necessarily be caused by mismanagement.

This is a major decision. I think the Senate is entitled to vote on the question without this device of trying to keep this SST as a piggyback on the Department of Transportation. It is not correct or fair to the Senate.

This is what I object to as a matter of policy. I would not be disposed to delay a vote on it if it was separated.

I thought the objective of the Senator from Montana was to do that, although it would delay the question for 3 months. I share the difficulty of the Senator from Colorado. I am not clear what effect the motion of the Senator from Washington or the Senator from Montana would have on the SST. Would it displace it? Would it have the effect of keeping these two married together so that the Senate cannot once again vote on the SST by itself? I am not clear about it.

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

Mr. FULBRIGHT. I yield.

Mr. CASE. Mr. President, that question is the heart of the issue before the Senate. It has been answered by the highest authority in this area at this moment, the Senator from Washington. His purpose is to tie them irrevocably together and prevent a separate vote on the SST. And that is the effect it will have. It will have the effect of voting to support his motion. He has said so himself.

Mr. FULBRIGHT. Mr. President, as distinguished a Senator as the Senator from Colorado a moment ago was in doubt about this. He has been paying special attention to this. I think if we are going to vote, every Senator ought to have an opportunity to understand what the vote is on. I do not think this is just a normal, simple thing we always do or something we do very often. In the long run this involves a Senate authorization of an enormous program involving $1, $2, or $3 billion. I do not think the Senate wishes to approve such an authorization.

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

Mr. FULBRIGHT. I yield.

Mr. PERCY. Mr. President, I wish to point out it involves not only that but it involves even more. This is the biggest single symbol the country has today ahead of it of whether we are going to put first things first and rectify our priorities, and whether we are going to solve the real problems that exist here and now, or some illusionary problem of prestige, or whatever it is, in moving a relatively few people someplace around the world to save a few hours a year.

I believe that is not a problem that the country feels we should address ourselves to and put billions of dollars into, a matter which the banks and the airlines have refused to put their own money into. Those are important issues.

If this matter were left to a referendum of the American people it would be overwhelmingly defeated, and the proponents of the SST know that. In fact, it would be overwhelmingly defeated in this Chamber if it were a separate issue. But now, by the suggestion of the majority leader, he is saying, "Let us continue this at the highest rate at which we have been spending; not the present rate but the highest rate: not at the conference report rate but at a higher rate, and then let us have a vote up or down and then have a new Congress decide."

Why should we push ourselves to bury this matter in another bill now when in a few days we will be a new Congress. and then the House and the Senate can decide what we will do on this issue? But to now force us to this position where we have to vote on this conference report because we are going to have payless paydays, in my judgment I would sooner face payless paydays and then everyone will know who brought those payless paydays about.

Mr. FULBRIGHT. I agree that much more is involved. The Senator has made that argument most persuasively.

What bothers me now is that a number of Senators who were not in the Chamber when this unusual situation arose would not completely appreciate it, because Senators with long experience have heard every word of this debate and are not clear as to the significance of this situation.

It would be a great shame if we had to vote under those circumstances on a matter that involves, as the Senator said, far greater questions than just the amount. It involves our sense of values and the recognition of the need in other areas of Federal spending.

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

Mr. FULBRIGHT. I yield.

Mr. PROXMIRE. Mr. President, the Senator from Arkansas inquired from the Chair if the Magnuson substitute prevailed whether or not it would be debatable. I have checked with the Parliamentarian and he said it would be debatable.

I understood the whole purpose of the Senator from Montana was in response to the situation, in recognition of the statement made a few days and by the Senator from Rhode Island, and that the Senate had to move one way or the other and that we should not delay this matter.

I say this with great regret, but if the Senator from Washington's amendment should prevail we would be placed in the position where it would be very difficult for us to accept the situation and go ahead and permit the vote on this matter. We have fought, bled, and died to prevent a vote on the conference report. Because such a vote would be grossly unfair to those who oppose the SST. It would mean Senators who strongly oppose the SST would be constrained to vote for the conference report to continue funding the Nation's great transportation programs.

In the same way, if the amendment of the Senator from Washington should prevail we are back in a position where we feel—I feel and other Senators feel—we would have to continue to discuss this matter.

The Senator from Montana proposed a compromise that goes much more than halfway, as the Senator from Illinois has pointed out. It keeps the SST alive, it gives it more money, and it extends it much farther than it should. We cannot go farther.

In addition to this, if the amendment of the Senator fom Washington should prevail and the SST is buttoned into the Department of Transportation bill so that in the future the only way we can stop the SST is to stop the entire amount for the Department of Transportation, we have no alternative in good conscience with the people we represent but to keep talking. I say that with great regret but I do not see any alternative.

Mr. MANSFIELD. Talking when?

Mr. PROXMIRE. There is not much time left but we might if we were forced to confront something like the pending conference report to talk at length.

Mr. MANSFIELD. If this is going to turn into another talkathon——

Mr. PROXMIRE. No, no, no.

Mr. MANSFIELD. They would have to move to table the pending amendment.

Mr. PROXMIRE. I wish to say to the Senator I am talking about after the vote on the proposal of the Senator from Washington. I have no intention to delay that vote, but if that prevails I would have to consider the possibility of further talk with great regret.

Mr. FULBRIGHT. Mr. President, in view of the difficulty of understanding the parliamentary situation, I think it is much wiser to debate the matter to try to get as much understanding as we can before we vote on the amendment of the Senator from Washington.

I believe that this body, having already voted on this matter, is forced to have what is equivalent to another vote on the SST in order to get out of this dilemma. I understand that if we did not have to vote on this proposal, but could vote on the Senator from Montana's instructions the SST would be given new life for 3 months. It would be as near as we could get under the present parliamentary situation to another vote up or down on the SST.

So I had assumed if we could vote on the Senator from Montana's motion it would be the nearest thing under the circumstances we could get as a further expression of the Senate on the SST. If I am not correct about that I would like to be corrected. On the other hand if we vote on the proposal of the Senator

from Washington we preclude the opportunity to vote on the SST.

Mr. JACKSON. Mr. President, will the Senator yield so that I may direct a question to the Senator from Wisconsin?

Mr. FULBRIGHT. I yield.

Mr. JACKSON. Do I understand the Senator from Wisconsin will speak at length if the conference report comes back and it is not agreeable to him, or a continuing resolution?

Mr. PROXMIRE. That is what we have been doing off and on for the past week. The conference report is not agreeable to many of us. Certainly if it comes back, in our judgment, the same kind of conference report, with the SST, I would be very much inclined to exercise my rights as a Senator.

Mr. JACKSON. What about a continuing resolution?

Mr. PROXMIRE. All I am saying to the Senator is whether it is a continuing resolution or the conference report or whatever it is, if it would, in the view of this Senator, continue the SST and give it the protection of combining it into the transportation appropriation bill I would talk on it at length. If that were not our position we could vote on the conference report tonight.

Mr. FULBRIGHT. I understand the position of the Senator and I think I share his attitude. I do not understand why the proponents of the SST, who certainly have legitimate attitudes, oppose the motion of the Senator from Montana, which I understand is the nearest thing we can get to a further expression of the Senate on the SST itself. If they are afraid it might carry, that is all right and that explains it; but I would think they would allow a vote on that to test the sentiment of the Senate.

Mr. COOK. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. FULBRIGHT. I yield for a parliamentary inquiry.

Mr. COOK. Mr. President, if the motion of the Senator from Montana should prevail, even though the proposal of the Senator from Washington might prevail or be defeated, are these instructions binding on conferees to the extent that they could come back to this body with a conference report that would be absolutely contrary to what we have been instructed to do; and if they brought it back would it be subject to a point of order?

The PRESIDING OFFICER. The Senator from Kentucky is correct. The conferees could come back from the conference with a position diametrically opposed to what they had been instructed to go into conference with, and when they came back with that new conference report, that conference report would not be subject to a point of order.

Mr. COOK. Then, may I ask what the argument is all about?

The PRESIDING OFFICER. That is not a parliamentary question.

The Senator from Arkansas has the floor.

Mr. FULBRIGHT. Mr. President, I do not think there is any great mystery in what the argument is about. The argument is about whether the Senate is going to have an opportunity to vote once more on the SST itself, without its having to be associated with the entire Department of Transportation appropriation which nearly all Senators favor. That is what this is all about.

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

Mr. FULBRIGHT. I yield.

Mr. PASTORE. It has been suggested that we are going to enlarge the conferees by two, one the Senator from Kansas, and the other the Senator from Wisconsin. Under those circumstances, would it not be better for us to go back to conference without instructions, as suggested by the Senator from Mississippi? The Senator from Wisconsin (Mr. PROXMIRE) will be on that conference, and so will the Senator from Kansas (Mr. PEARSON). If it becomes necessary and we cannot agree on something, I think they could come back for further instructions. But I think it would be inadvisable to go to the House encumbered with instructions which they might consider an insult. We should go there unencumbered. We have two new conferees. We have the Senator from Wisconsin (Mr. PROXMIRE), who has been the leader in the fight against the SST. He is going to be there and he is going to see that the Senator is completely protected as to his side. It seems to me that is the way they ought to go.

Mr. FULBRIGHT. The Senator's suggestion has more appeal to me than the suggestion of the Senator from Washington. I do think there is value in a vote on the suggestion of the Senator from Montana's position. I do not consider it an insult to the House at all.

Mr. PASTORE. No, but they might consider it so.

Mr. FULBRIGHT. It would be a further expression of the Senate's position, brought up to date. The Chair has already said these instructions are not binding and that the conferees do not have to follow them. It simply says to the House that we have not changed our minds since the original vote on the SST was taken, a month or so ago. It further says we do ont believe it is wise. It further says we do not demand that you accept our best judgment, which is to kill the program now. We had an election. We have a new Congress arriving. I think it is most reasonable to say, let us think it over for 2 or 3 months and then the new Congress, which, after all, is going to last 2 years, can work its will.

I believe the Senator from Wisconsin takes the same position. We have no predisposition to delay at all. I think it is a reasonable position for us to take and it is no insult to anybody.

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

Mr. FULBRIGHT. I yield.

Mr. PASTORE. I quite agree. I would absolutely agree to the Mansfield plan. The only point I am making is that it might be a compromise that we might negotiate. I think we would accomplish it much better, going into a conference with the Senator from Wisconsin (Mr. PROXMIRE), if we went in there unencumbered. Perhaps the Mansfield plan could be a compromise instead of an instruction which might meet with the stiffness which we have met right along.

Mr. FULBRIGHT. Being a conferee, does the Senator believe it would be less persuasive not to have an expression of the Senate on this matter than it would be to have one?

Mr. PASTORE. I do not like the word "expression"—not to have an instruction. There is a difference. We can express it there without an instruction, but it is the instruction that bothers me.

Mr. FULBRIGHT. Perhaps that is an improper question.

Mr. President, a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. FULBRIGHT. Is the motion of the Senator from Washington alone subject to a motion to table?

The PRESIDING OFFICER. It is.

Mr. MANSFIELD. Mr. President, will the Senator withhold that motion?

Mr. FULBRIGHT. I was debating about moving the bill along. I personally will say that the Senator from Wisconsin and other Senators are willing to say they will take this suggestion I will not object if the conferees much prefer that. I merely thought the instructions of the Senator from Montana, if that is what we want to call them—maybe we could call them advice, if the Senator prefers—would be helpful to the conferees, because I think they ought to know how the Senate feels.

I must say that the proposal envisioned by the Senator from Montana's view, if it is accepted, is a reasonable one. I do not see why the House should either feel insulted or refuse to go along. Considering the deadlock I think it is a reasonable compromise.

Mr. PASTORE. Our problem has not been how we feel as much as it has been how the House feels. We know what the Senate's position is, and we want to cut it out. But the problem is to convince the House.

Mr. FULBRIGHT. But it is halfway between the two positions.

Mr. PASTORE. From our point of view; but from their point of view it might not be halfway between. That is why I say let us make it negotiable.

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

Mr. FULBRIGHT. I yield.

Mr. MAGNUSON. Of course, the purpose of my motion was only to instruct the conferees to go back in disagreement and seek a continuing resolution. That is what we do all the time. We do not say in disagreement on this thing or that thing, but only in disagreement, and we see if we can work out a compromise—in this case the House conferees seek a continuing resolution from the House for the entire DOT measure.

I will withdraw my instruction if the Senator from Montana will withdraw his instruction and we will then just go to conference. I honestly believe it will be futile.

Mr. ALLOTT. Mr. President, I do not know whether the Senator from Montana (Mr. MANSFIELD) heard the last statement. I wish the Senator would convey it to him.

I would like to say just a word. I address this particularly to those who say they have a right to separate, and separate out—that is not good English, but it is a good word—separate out the SST from the bill. We are engaging in a very dangerous game here if we talk and accept that procedure, because, if that is true, then on a bill on foreign aid, for example, or on a bill on the State Department, or on a bill on Interior, or on a labor bill, or for example, on an HEW appropriation bill, if this philosophy which has been talked about so freely on the floor is accepted, we are in a very, very dangerous situation, and we really have no rules left, because, for example, when an HEW bill came back some Senator might disagree with the Heart Institute of NIH, or any other Institute there. So when the conference report came back, if we disagreed with it and performed the tactics that have been performed here, insisting that at some later time, for example, the Cancer Institute or the Arthritic Institute of NIH, or any one of 3,000 items in the bill—and there are almost literally that many—be "separated out" for a later vote, I am forced to make this comment at this time: If we accept this sort of philosophy we are really getting ourselves in a bind.

Now I have a parliamentary question.

The PRESIDING OFFICER. The Chair will hear the Senator on his parliamentary inquiry.

Mr. ALLOTT. The parliamentary question is this: If we send the bill back without either of the two pending motions or amendments in disagreement, the bill is then in disagreement as to every item in it which was originally in disagreement between the two Houses. Is that correct?

The PRESIDING OFFICER. That would be true, except for the amendments that the House of Representatives has concurred in already. The House has already concurred in amendments numbered 6, 12, 32, 44, and 45.

Mr. ALLOTT. What would be the situation with respect to the ones upon which the Senate receded?

The PRESIDING OFFICER. The Senate has not receded in any amendments as yet.

Mr. ALLOTT. The only thing, as far as we are concerned, that is in issue when the bill goes back to conference are two amendments in which the Senate has receded?

The PRESIDING OFFICER. If the conferees go back to conference, all of the Senate amendments which the House has not concurred in would be in conference.

Mr. MURPHY. Mr. President, will the Senator from Colorado yield at that point? Just 10 seconds.

Mr. ALLOTT. All right.

Mr. MURPHY. In other words, if I may try to simplify this, what we are experiencing here is a conference that has been interrupted for an extended discusson, and the conferees go right back and pick up where they left off, and start with the matters that have not been in agreement; is that understanding correct?

The PRESIDING OFFICER. The Senator from California has paraphrased the statement of the Chair quite accurately.

Mr. ALLOTT. Mr. President, I think I have got my answer, and I yield the floor so that the Senator from Montana may continue.

Mr. BIBLE. Mr. President, in order to clarify the confused situation, or perhaps to muddy it up a little more, I move that the Senate disagree to the House amendment to Senate amendment No. 14.

Before that arouses a lot of suspicions, I hasten to state that it is a technical motion that is required on amendment 14, which has to do with the antihijacking provision that was put in. I understand it should have been done earlier. It was not done earlier, and it has nothing whatever to do with the SST.

This puts everything in conference, so that when we go back, we start from scratch. I am frank to say that I think we can make very fine headway on every item until we get down to the one, and we are still going to have some problems there, but we are going to do the very best we can on it, and with God's help maybe we can come back with something that will resolve the dilemma. But I would like to hear the Chair's ruling on the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

Mr. BIBLE. I yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I have had some discussions with various Senators. It appears that we are in for a good deal of talking one way or the other, without any result being achieved. I therefore ask unanimous consent to withdraw my proposal temporarily, on the basis that there will be two new conferees appointed, the distinguished Senator from Wisconsin (Mr. PROXMIRE) and the distinguished Senator from New Hampshire (Mr. COTTON).

Mr. STENNIS. I understood the Senator from Kansas was the next one.

Mr. ALLOTT. He does not want it.

Mr. COTTON. Mr. President, I am not a candidate for it. [Laughter.]

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

Mr. MANSFIELD. With the possibility, also, that instead of talking ourselves blue on the Senate floor, it might be possible for the conferees to get together this evening to see what could be done.

So on that basis, temporarily I withdraw my proposal, which I understand takes with it the proposal of the distinguished Senator from Washington.

Mr. MAGNUSON. I withdraw my proposal.

Mr. HOLLAND. Mr. President, I congratulate the Senator from Montana and the Senator from Washington on having withdrawn their proposals. This simply means that this new and enlarged conference committee goes back to confer with the House of Representatives. We have just completed such a conference on the foreign aid bill, with no instructions, and with exactly what has happened here, the laying on the table of the conference report; and we found that we were not in agreement on only a single item, and did not even discuss all the other items.

We reported that single amendment in disagreement, and both Houses are going to have a chance to vote on it. That is what will happen here if no further progress is made. But there is a chance for making further progress, and I think what has been done now opens the door to further progress, if it can be made, and if it cannot be made, to a renewed expression from both Houses on the position that the two Houses may wish to take on the SST proposal. It seems to me that is a clear gain, and that is the thing that should be done. I hope it will be done.

Mr. MANSFIELD. Mr. President, I am not eligible for congratulations. The issue, I think, is still the SST, and my proposal, I think, made that very plain.

But in the interests of doing away with more talk this afternoon and this evening, and maybe getting a meeting of the conferees sometime shortly, with the addition of two new conferees, I am prepared temporarily—and I emphasize the word temporarily—to withdraw my proposition for the time being.

Mr. BIBLE. Mr. President, I think we have come a long way. I hope so. The enlargement of the conference committee is not, of course, a final solution to this problem. I appreciate the attitude of the majority leader. I have asked the staff to check with his House counterpart and we are prepared to go to conference this evening if they are available.

Mr. President, I move that the number of conferees be increased by two, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. GRAVEL) appointed Mr. STENNIS, Mr. MAGNUSON, Mr. PASTORE, Mr. BIBLE, Mr. PROXMIRE, Mr. CASE, Mrs. SMITH, Mr. ALLOTT, and Mr. COTTON on the part of the Senate.

Mr. BIBLE. We go forward with great hope and with short time. I now yield the floor.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES APPROPRIATION BILL, 1971—CONFERENCE REPORT

Mr. MAGNUSON. 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. 18515) making appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1971, and for other purposes.

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

The PRESIDING OFFICER (Mr. GRAVEL). Is there objection to the present consideration of the report?

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

(For conference report, see House proceedings of December 11, 1970, page 41106, CONGRESSIONAL RECORD.)

Mr. MAGNUSON. Mr. President, I have today informed several Senators that we would not begin discussing the HEW conference report until tomorrow at the beginning of the session. In view of

that understanding, I announce that the Senator from New Hampshire and I will resume with the explanation and discussion of the Labor-HEW conference report tomorrow. It will probably be at least 9:30 or 10 o'clock before we begin.

I wish to inform Senators that it should not take long, but I do not know; after my recent experience with conferences I should not venture such a prediction. But I have hopes it will not take very long. This is a large, important bill, and I hope that Senators who are interested will be here tomorrow, so that we can take it up and complete the adoption promptly.

ORDER OF BUSINESS

Mr. MAGNUSON. Mr. President, I have no further requests to make this evening.

I assume the leadership will agree to set this bill aside and take up something else.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, communicated to the Senate the intelligence of the death of Hon. L. Mendel Rivers, late a Representative from the State of South Carolina, and transmitted the resolutions of the House thereon.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 19172) to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents of such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. BARRETT, Mr. REUSS, Mr. ASHLEY, Mr MOORHEAD, Mr. WIDNALL, Mr. HALPERN, and Mr. STANTON were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 14, 26, 31, 49, and 53 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1626) to regulate the practice of psychology in the District of Columbia.

The message further announced that the House had agreed to the report of the committee of further conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17867) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 6, 17, 19, and 24 to the bill, and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

SURVIVOR ANNUITIES UNDER CIVIL SERVICE RETIREMENT PROGRAM

Mr. McGEE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 437.

The PRESIDING OFFICER (Mr. GRAVEL) laid before the Senate the amendment of the House of Representatives to the bill (S. 437) to amend chapter 83 of title 5, United States Code, relating to survivor annuities under the civil service retirement program, and for other purposes, which was to strike out all after the enacting clause, and insert:

That section 8332(f) of title 5, United States Code, is amended by inserting immediately after the first sentence thereof the following new sentence: "An employee or former employee who returns to duty after a period of separation is deemed, for the purpose of this subsection, to have been in a leave of absence without pay for that part of the period in which he was receiving benefits under subchapter I of chapter 81 of this title or any earlier statute on which such subchapter is based.".

SEC. 2. (a) Section 8339(i) of title 5, United States Code, is amended by striking out "his spouse" and inserting in lieu thereof "any spouse surviving him".

(b) Section 8339(j) of title 5, United States Code, is amended—

(1) by inserting "(1)" immediately after "(j)"; and

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

"(2) An employee or Member, who is unmarried at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to his spouse and who later marries, may irrevocably elect, in a signed writing received in the Commission within 1 year after he marries, a reduction in his current annuity as provided in subsection (i) of this section. His reduced annuity is effective the first day of the month after his election is received in the Commission. The election voids prospectively any election previously made under paragrph (1) of this subsection.".

SEC. 3. (a) Section 8341(a) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (2)(B);

(2) by striking out paragraph (3); and

(3) by renumbering paragraph (4) as paragraph (3).

(b) Section 8341(b) of title 5, United States Code, is amended to read as follows:

"(b) (1) Except as provided in paragraph (2) of this subsection, if an employee or Member dies after having retired under this subchapter and is survived by a spouse to whom he was married at the time of retirement, or by a widow or widower whom he married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 percent, or 50 percent if retired before October 11, 1962, of an annuity computed under section 8339 (a)–(h) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(i) of this title, unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive this annuity.

"(2) If an annuitant—

"(A) who retired before April 1, 1948; or

"(B) who elected a reduced annuity provided in paragraph (2) of section 8339(j) of this title;

dies and is survived by a widow or widower, the widow or widower is entitled to an annuity in an amount which would have been paid had the annuitant been married to the widow or widower at the time of retirement.

"(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he may be entitled under this subchapter or another retirement system for Government emyloyees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—

"(A) dies; or

"(B) remarries before becoming 60 years of age.".

(c) Section 8341(d) of title 5, United States Code, is amended to read as follows:

"(d) If an employee or Member dies after completing at least 18 months of civilian service, his widow or widower is entitled to an annuity equal to 55 percent of an annuity computed under section 8339 (a)–(e) and (h) of this title as may apply with respect to the employee or Member, except that, in the computation of the annuity under such section, the annuity of the employee or Member shall be at least the smaller of—

"(1) 40 percent of his average pay; or

"(2) the sum obtained under such section after increasing his service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age.

The annuity of the widow or widower commences on the day after the employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the widow or widower—

"(A) dies; or

"(B) remarries before becoming 60 years of age".

(d) Section 8341(e)(2) of title 5, United States Code is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(3)".

SEC. 4. Section 8344(a) of title 5, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "If the annuitant is receiving a reduced annuity as provided in section 8339(i) or section 8339(j)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the annuitant dies while still reemployed and the described reemployment had continued for at least 5 years, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.".

SEC. 5. (a) The amendment made by the first section of this Act is effective only with

respect to annuity accruing for full months beginning after the date of enactment of this Act; but any part of a period of separation referred to in such amendment in which the employee or former employee was receiving benefits under subchapter I of chapter 81 of title 5, United States Code, or any earlier statute on which such subchapter is based shall be counted whether the employee returns to duty before, on, or after such date of enactment. With respect to any person retired before such date of enactment, any such part of a period of separation shall be counted only upon application of the former employee

(b) The amendments made by sections 2(a) and 3 of this Act shall not apply in the cases of employees, Members, or annuitants who died before the date of enactment of this Act. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted.

(c) The amendments made by section 2(b) of this Act shall apply to an annuitant who was unmarried at the time of retiring, but who later married, only if the election is made within 1 year after the date of enactment of this Act.

(d) The amendment made by section 4 of this Act shall apply only with respect to a reemployed annuitant whose employment terminates on or after the date of enactment of this Act.

SEC. 6. The Act of August 25, 1958 (72 Stat. 838; 3 U.S.C. 102, note), is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) Each former President shall be entitled for the remainder of his life to receive from the United States a monetary allowance at a rate per annum, payable monthly by the Secretary of the Treasury, which is equal to the annual rate of basic pay, as in effect from time to time, of the head of an executive department, as defined in section 101 of title 5, United States Code. However, such allowance shall not be paid for any period during which such former President holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate.";

(2) Subsection (e) is amended to read as follows:

"(e) The widow of each former President shall be entitled to receive from the United States a monetary allowance at a rate of $20,000 per annum, payable monthly by the Secretary of the Treasury, if such widow shall waive the right to each other annuity or pension to which she is entitled under any other Act of Congress. The monetary allowance of such widow—

"(1) commences on the day after the former President dies;

"(2) terminates on the last day of the month before such widow—

"(A) dies; or

"(B) remarries before becoming 60 years of age; and

"(3) is not payable for any period during which such widow holds an appointive or elective office or position in or under the Federal Government or the government of the District of Columbia to which is attached a rate of pay other than a nominal rate."; and

(3) Subsection (f) is amended to read as follows:

"(f) As used in this section, the term 'former President' means a person—

"(1) who shall have held the office of President of the United States of America;

"(2) whose service in such office shall have terminated other than by removal pursuant to section 4 of article II of the Constitution of the United States of America; and

"(3) who does not then currently hold such office.".

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, S. 437, the bill now being considered by the Senate, is a bill that is sometimes known as the second spouse bill. As it originally passed the Senate last September, it provided for certain progressive changes in the Civil Service Retirement Act; namely, to permit a retired Federal employee, whose spouse predeceased him, to marry again and designate his second spouse as the potential beneficiary of a civil service retirement annuity.

This second spouse bill has long been the aim of many of the 900,000 retired civil service employees. There was unanimous agreement in the committee that the change should be made.

Now, as the bill came back to us from the House, it has one significant change—or addition would be a better way to put it.

An amendment was adopted by the House Committee on Post Office and Civil Service to increase the rate of compensation of a former President of the United States from the present rate of $25,000 a year, which was established in 1958, to the rate for a member of the Cabinet, whatever that may be at that current time. At the present moment, that rate would be $60,000 a year.

I have consulted with all members of the Committee on Post Office and Civil Service, as has the distinguished ranking Republican member of the committee, the Senator from Hawaii (Mr. FONG), and we have heard no objection to the change in the Presidential retirement system in the degree I have just described.

It has been 12 years since the rate was first established. The increase granted in the legislation amounts to an annual rate of increase of a bit over 11 percent which, considering the extraordinary expenses incurred by a former President, seems to the members of the committee to be fair and reasonable.

I cannot conceive that anyone in this Chamber would wish a former President to suffer financial hardship or a diminution of the prestigious responsibilities associated with the highest office in the land, a responsibility that at least ought to be comparable in terms of the positions of leadership in the private sector.

We have a great deal to say in this body from year to year about comparability for public employees. This should not exclude the President of the United States.

The bill also includes the raising of survivor annuities for the widow of a former President from the current rate of $10,000 a year to $20,000 a year, terminating upon the death or upon the remarriage, if such marriage takes place prior to her 60th birthday.

The estimated cost of the bill in toto at the present time is $90,000 a year. Three persons would now be affected by the bill. They are former President Harry Truman, former President Lyndon Johnson, and Mrs. Dwight Eisenhower.

Mr. President, I have in my hand a statement prepared by the distinguished ranking minority member of the committee, the Senator from Hawaii (Mr. FONG). It is a statement in which he spells out the equity of this proposal. I ask unanimous consent that the statement be printed at this point in the RECORD.

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

STATEMENT OF SENATOR FONG

Mr. President, the Senate bill now before us, as amended by the House of Representatives, would allow Federal retirees to designate subsequent spouses for survivor benefits; give equal treatment to female Federal retirees in designating survivor-beneficiaries; and, increase the pensions of former Presidents of the United States and their widows.

The main subject of this legislation, removing certain inequities in the Federal employee retirement laws, has been under study by the Senate Post Office and Civil Service Committee for several years. I was very pleased when the committee favorably reported this legislation to the Senate earlier this year. The Senate passed the bill on September 10.

The House of Representatives has made several technical changes in the bill and added one substantive amendment. However, it is still a very meritorious measure and the Senate should approve it as amended.

The bill removes two gross inequities in the Federal employee retirement laws. The first inequity it eliminates is the prohibition against a Federal retiree naming a subsequent spouse for survivor benefits even though deductions from the retiree's annuity for such benefits continued.

The bill would allow a retiree whose first spouse predeceases the retiree to designate any subsequent spouse as the beneficiary of his retirement annuity, as long as the subsequent marriage was for at least two years or a child was born out of that subsequent marriage.

The second inequity removed by this bill eliminates the prohibition against a female Federal retiree naming her husband as a survivor-beneficiary unless her husband was a dependent. This present discrimination against female Federal retirees exists only because of their sex. No similar prohibition applies to male retirees.

Under the bill, any female Federal retiree may name her husband as a survivor-beneficiary whether or not he is a dependent. This treats both male and female retirees on an equal basis.

The substantive amendment added to the Senate bill by the House of Representatives would tie the pensions of former Presidents of the United States to the annual salary of cabinet officer.

Up to 1958, former Presidents of the United States received no pensions from the United States Government. In 1958, the Congress passed a bill giving former Presidents an annual pension of $25,000. The $25,000 figure was chosen because that was the annual salary of cabinet officers at that time.

However, this bill, rather than specifying a dollar figure would require that the pensions of former Presidents be the same as the pay for cabinet officers, whatever that figure might be. Presently, it is $60,000 per year. Should the salaries for cabinet members be increased in the future, the pension would likewise increase an equivalent amount.

I ask unanimous consent that pages 5 and 6 of the report of the House of Representatives number 91-1469, relating to the in-

crease in pensions of former Presidents be included at this point in my remarks.

I believe it is pertinent to this House amendment to point out that all Federal judges retire at full salary without making any contributions to the Federal retirement system. Associate Justices of the United States Supreme Court receive a pension of $60,000 per year when they leave the court—this is their annual salary. The Chief Justice receives $62,500. It is not out of line, therefore, to allow former Presidents a pension of $60,000 when they leave the White House.

The duties that former Presidents continue to perform in behalf of their country continue to increase. They remain important figures not only to the United States but to the entire world throughout their lives. The government should provide adequate compensation to enable former Presidents to fully maintain demands upon them. The bill fulfills this obligation in behalf of all Americans.

The bill also increases the pensions of widows of former Presidents from $10,000 to $20,000.

This legislation is very necessary and I urge the Senate to give its approval.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I supported this bill as it went through the Senate. I recognize that we should make adequate pension provisions for a former President, this goes too far, but when we speak of expense allowances for former Presidents, in the last couple of years we substantially increased their allowances for the maintenance of their offices and so forth back home. What bothers me here is whether or not we should go this far at this particular time—more than doubling the pensions for these pensioners—when we consider the fact that in less than 12 months we have made a 100-percent increase in the salary of the President, and now if we are going to make about a 125-percent increase in their pension allowances, I wonder how any President can call on management and labor to hold the line in this inflationary period and say that they should restrict their own demands for salary increases and for increases in their pension allowances.

I wonder if we are not placing Presidents in an almost impossible position.

I think we made a tragic mistake when we doubled the salary for the President a couple of years ago when we all realized that we were threatened with inflation which resulted from some of the excessive spending of Government which came under the jurisdiction of these Presidents, and now we propose to have a further increase in their pensions, which would in effect insulate them against the ravages of inflation that have been created partly by their office and partly by Congress.

Is this the proper time? While I supported the other provisions of the bill, I will not support the committee amendment. I think it is ill advised. I might say that the comments I am making in connection with the increase in the Presidential salaries are equally applicable to the increases Congress voted for itself at the same time. As the Senator knows, I protested at the time the fact that Congress raised its own salaries by 41 percent. The mathematics of that is that automatically after 3 years it raises our pension 40 percent in the same way. I think Congress made a mistake when we raised our salaries and built in a raise of our own pensions when at the same time we were deploring the ravages of inflation.

It is wrong and a little bit of hypocrisy on the part of both the legislative and the executive to express concern over inflation when we do not begin to practice what we preach.

I want the RECORD to show that I will not support the amendment.

Mr. McGEE. Mr. President, I appreciate the statement of the Senator from Delaware. We are all conscious of the inflationary forces at work in these times.

The only thought that occurred to the committee that deliberated this question was that probably for something like this there never will be a good time. It is always a sensitive point. It was our judgment that raising the prestige and the dignity of the highest office in our land ought not to be delayed longer.

We are mindful of the fact that men of wealth are often Presidents of the United States and that men of wealth often are presidents of General Motors or American Telephone and Telegraph and many other corporations in the private sector. However, this does not alter the equity of a reasonable retirement formula. So the office itself should become the real focus of action pending here.

I think we do our system a disservice if we from time to time defer this kind of a judgment. All of us have mixed feelings in terms of timing, as the Senator appreciates, because of the tightness of things at this time. But it has to be done some time. It should have been done long ago because of the importance of the office. There should have been the doubling of the President's salary and the setting up of a retirement program for the President of the United States so that he would be at least as well rewarded as if he had stayed in the private sector.

It was our judgment that while this was a mixed sort of thing in terms of its impact, timingwise, that there was a major degree of sheer merit for the office of the President rather than its application to any particular party who might be President.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. McGEE. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I want to make sure that the record shows I am not speaking of personalities in this matter. I realize that we want the office of President always to be respected. I have as high a respect for this office as any Member of the Senate. After all, being realistic, the same argument about respect for office was used a couple of years ago when Congress raised its own salaries by 40 percent. I made the statement and I will repeat it now—I think it is very important that the American people have respect for their public officials, whether they be in the White House or in the Congress. But respect for public officials is not necessarily engendered by the salary we pay them. It is more dependent upon their conduct of the office.

I do not think we should raise the salary on the basis of trying to create respect for the office.

I might point out that I was one of the cosponsors of the measure that initiated the first presidential pension several years ago. At the time it was for President Truman. I said that I thought the ex-Presidents should have a pension that would allow them to live in retirement as would be expected of former Presidents. I still feel that way. However, at the same time, I think Congress has been a little careless in the last couple of years both in connection with raising presidential salaries as well as raising their own salaries.

In connection with the statement that there might not ever be a good time to do this, the argument was made at the time the first presidential pension plan was discussed that it was not the right time. But at that time we had a balanced budget and were not confronted with the serious threat of inflation.

Today we are confronted with a serious threat of inflation. We all recognize that.

The Senator pointed out what the pension would be for a retired president of General Motors or A.T. & T. I would ask what their salaries or pensions would be if the executive officers of those companies had operated those companies in the red for about 25 of the past 30 years and were presently building up a deficit this year that would be the second highest, if not the highest, deficit in the history of the country. I do not think the stockholders would be raising their salaries or pensions under any such circumstances. I do not think that comparing this with the presidents of other companies that have been operating in the black is a good argument.

Mr. President, with all due respect to all former occupants of the White House, I am not going to support this provision.

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

Mr. McGEE. I yield.

Mr. CURTIS. Mr. President, I notice the House report in reference to the former Presidents refers to the monetary allowance of $25,000 a year. What other allowances are provided for our former Presidents?

Mr. McGEE. Former Presidents are allowed a small allowance for office space and a limited staff.

Mr. CURTIS. Does the Senator know the amount?

Mr. McGEE. It is $80,000 for the total staff.

Mr. CURTIS. Now, is that in cash or is it an assignment of particular personnel?

Mr. McGEE. It is a lump sum that the President, I assume, as the boss, or the director of the office operation could determine in terms of the number of staff that would be included. It is similar, I suppose, to the allowance made to Senators for staff.

Mr. CURTIS. Is it paid in the same way?

Mr. McGEE. The President himself cannot disperse any of it for himself. It is limited to staff.

Mr. CURTIS. Is that all the staff?

Mr. McGEE. That is all the Government pays for, I am told.

Mr. CURTIS. Does that include the assignment of Secret Service personnel?

Mr. McGEE. That does not include the assignment of Secret Service personnel.

Mr. CURTIS. Does the Senator know how many Secret Service men are assigned to our former Presidents?

Mr. McGEE. I do not have any knowledge as to what the number would be. I would think the matter of Secret Service for former Presiednts would be more a privilege.

Mr. CURTIS. I understand. My questions were raised because of the language of the bill. My sentiments are those of the Senator from Delaware.

I wish to associate myself with the remarks of the Senator from Delaware. I am opposed to the conference report.

I thank the Senator.

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

Mr. McGEE. I am glad to yield.

Mr. ALLEN. As I understand the House amendment it provides for an increase in the presidential pension from the present fixed amount of $25,000 up to whatever salary is paid to a member of the Cabinet.

Mr. McGEE. The Senator is correct.

Mr. ALLEN. At the present time that amount would be $60,000. In addition to that any former President who had served in Congress would be entitled to a congressional pension, as well. Is that not correct?

Mr. McGEE. Yes, the Senator is correct. He made his contributions.

Mr. ALLEN. There would be no contributions on the $60,000.

Mr. McGEE. No.

Mr. ALLEN. It would be a contribution on the congressional pension.

Mr. McGEE. Yes.

Mr. ALLEN. So actually where a former President had served in Congress for a number of years, as is the case of former President Truman, former President Johnson, and President Nixon, they would draw, in addition, somewhere in the neighborhood of $20,000 a year, making around $80,000 in retirement pay and pension combined.

Mr. McGEE. Yes. That would be approximately correct.

Mr. ALLEN. Does the Senator feel if this amendment is not agreed to that there will be any lessening of the number of qualified candidates who seek the Presidency in the future?

Mr. McGEE. Well, let us turn the question around the other way. Other opportunities that would be available for one with leadership capabilities might make fewer men willing to take on what is a lonely and burdensome job, at best.

Mr. ALLEN. Does the Senator think any individuals who are mentioned as prominent candidates for the Presidency would refrain from running if this pension increase is not agreed to?

Mr. McGEE. Oh, I would not be in a position to speak for anyone who might be seeking to run for the office of President of the United States. I would not want to speak for them. I am addressing this presentation really to the office of President rather than candidates for President. I think it is the office of the President of what is described as the most powerful nation in the world, with awesome responsibilities, should require something commensurate to this.

Mr. ALLEN. Has it been the practice of former Presidents to make large sums of money through the writing of books or appearances on television or writing articles for magazines? Is there any thought on the part of the Senator from Wyoming that any former President would be in dire financial straits and need a pension of this sort?

Mr. McGEE. Well, some do and some do not. It depends on the times, the interests, and the proclivities of the particular ex-President, rather than the basic considerations for what should be our measure for the office of President. The President should not have to find out what Life magazine is going to pay him when he retires when he does a series of articles for them. He should be able to retire as President of the United States, if that is his choice. This should not be confused with the office of the Presidency.

Mr. ALLEN. A salary of $200,000 should enable an occupant of the White House to lay a little bit aside for his old age; should it not?

Mr. McGEE. It would seem to me that should be true, but the Senator might be surprised by the number of Deputy Secretaries of departments who beat a path to my door to remind me that they gave up jobs at salaries of $300,000 or $270,000 a year to become Deputy Secretaries of something in the administration. They say, "It was only because my arm was twisted that I was willing to try it."

The point of my presentation is that in our system of competitive enterprise we have sought through that competition to dignify the office of president of our great corporations and surely we can at least attempt to dignify in those terms that most understand so well the office of President.

Mr. ALLEN. In the same vein, is not the honor of the office of Presidency enough without the compensation involved?

Mr. McGEE. I think the honor system is not well received at the supermarket or in other ways. Consideration must be given to the fact the man had been President and was called upon to do certain things, to go to certain places because of the experiences that became cumulative during his Presidency. That is why we owe it to the office to try to assure the dignity of that office.

Mr. ALLEN. The bill passed by the Senate did not include this provision. Is that correct?

Mr. McGEE. The Senator is correct.

Mr. ALLEN. It was tacked on by the House and is now being considered by the Senate for the first time. Is that correct?

Mr. McGEE. The Senator is correct.

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

Mr. ALLEN. Mr. President, I ask for the yeas and nays on agreeing to the House amendment.

The yeas and nays were ordered.

COMPENSATION OF CERTAIN SENATE EMPLOYEES

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

The PRESIDING OFFICER. The resolution will be read.

The legislative clerk read the resolution (S. Res. 499) as follows:

Resolved, That the Secretary of the Senate is authorized to pay on January 20, 1971, the compensation due employees of all Senators-elect, for the term commencing on January 3, 1971, for whom certificates of election, signed by their respective Governors, have been received.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination on the calendar.

There being no objection, the Senate proceeded to consider executive business.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Donald W. Wyatt, of Rhode Island, to be U.S. marshal for the district of Rhode Island.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

SURVIVOR ANNUITIES UNDER CIVIL SERVICE RETIREMENT PROGRAM

The Senate resumed the consideration of the amendment of the House of Representatives to the bill (S. 437) to amend chapter 83 of title 5, United States Code, relating to survivor annuities under the civil service retirement program, and for other purposes.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Con-

necticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) would vote nay.

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Colorado (Mr. ALLOTT), the Senator from New Hampshire (Mr. COTTON), and the Senator from Illinois (Mr. PERCY) are detained on official business.

If present and voting, the Senator from Oregon (Mr. HATFIELD), and the Senator from South Dakota (Mr. MUNDT) would each vote "nay."

The result was announced—yeas 37, nays 35, as follows:

[No. 456 Leg.]

YEAS—37

Baker	Jackson	Pearson
Boggs	Javits	Prouty
Byrd, W. Va.	Kennedy	Proxmire
Case	Long	Randolph
Church	Magnuson	Saxbe
Cooper	Mansfield	Schweiker
Cranston	Mathias	Scott
Gravel	McGee	Stennis
Griffin	McIntyre	Stevens
Gurney	Metcalf	Symington
Hartke	Miller	Tydings
Holland	Moss	
Hughes	Nelson	

NAYS—35

Aiken	Ervin	Murphy
Allen	Fannin	Muskie
Bellmon	Fulbright	Packwood
Bennett	Goodell	Pastore
Bible	Gore	Pell
Brooke	Hansen	Smith
Byrd, Va.	Harris	Sparkman
Cannon	Hruska	Spong
Cook	Jordan, N.C.	Thurmond
Curtis	Jordan, Idaho	Williams, Del.
Dole	McClellan	Young, N. Dak.
Ellender	Mondale	

NOT VOTING—28

Allott	Goldwater	Ribicoff
Anderson	Hart	Russell
Bayh	Hatfield	Stevenson
Burdick	Hollings	Talmadge
Cotton	Inouye	Tower
Dodd	McCarthy	Williams, N.J.
Dominick	McGovern	Yarborough
Eagleton	Montoya	Young, Ohio
Eastland	Mundt	
Fong	Percy	

So the motion to concur in the House amendment to S. 437 was agreed to.

EXCISE, ESTATE AND GIFT TAX ADJUSTMENT ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1467, H.R. 19868.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A 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 communications services, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. MANSFIELD. Mr. President, if I may, I had promised to ask the Chair to recognize the Senator from Kansas.

SENATE RESOLUTION 501—CONCERNING THE CONTINUED INJUSTICES SUFFERED BY JEWISH CITIZENS OF THE SOVIET UNION

Mr. DOLE. Mr. President, I send to the desk a resolution, and ask for its immediate consideration.

The PRESIDING OFICER. The resolution will be stated.

The LEGISLATIVE CLERK. The Senator from Kansas (Mr. DOLE) proposes a resolution concerning continued injustices suffered by Jewish citizens of the Soviet Union.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

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

Mr. DOLE. Mr. President, the resolution is very brief. It may be helpful to read it. The resolution reads as follows:

Resolution concerning the continued injustices suffered by Jewish citizens of the Soviet Union

Resolved, That the Senate hereby expresses its grave concern over the continued injustices to which the Jewish people in the Union of the Soviet Socialist Republics have been subjected by the Government of that Nation, as manifested most recently by the cruel and unusual punishment of the death sentences imposed upon two Jewish citizens of the Soviet Union for an allegedly treasonous act.

SEC. 2. The Senate respectfully urges the President (1) convey to the Government of the Union of the Soviet Socialist Republics the grave concern of the people of the United States and the Senate over these injustices, (2) urge the Soviet Government to commute the two death sentences, and (3) urge that Government to provide fair and equitable justice for its Jewish citizens.

Mr. President, from the days of Stalin, the Government of the Soviet Union has consistently sought to subjugate the spiritual will of Soviet Jews to the political will of an atheist state. Consistently, those efforts have failed.

Anti-Semitism, under Stalin, found its ultimate expression in mass murder with none of the real or fancied restraints of the Soviet judicial system. Today, Soviet leadership threatens to revive this policy—this time seeking to allay world suspicion by hanging the trappings of a trial about the murders it now contemplates. The purpose is the same—to intimidate and to silence a minority whose spiritual heritage each of us shares, whose cultural heritage each of us draws on, whose courage each of us admires, and whose pain each of us must share—a minority which refuses to be intimidated and will not be silenced.

Those selected to serve the purpose of intimidation are accused of treason. Two of them are sentenced to death. Their treasonous act was one that citizens of the free world take for granted—they attempted to leave their country. In this effort they are alleged to have planned to hijack a plane. But it is known that they never set foot on the plane in question. And beyond this, little is known.

Because as in the days of Andrei Vyshinski, the trials were held in secret. And the defendants are not condemned for the manner in which they sought to leave—but for the fact that they sought to leave at all. They sought to go from where they are not wanted—except as scapegoats for a totalitarian government—to join their people in Israel. We can appreciate the Soviets' problem. Certainly, the exodus of Russian Jews from the "people's paradise" must be embarrassing to the Soviets. But the keepers of the gates to this "paradise" must know that it will not be possible forever to build walls to keep their people in. Mr. Khrushchev himself indicated that in his recent memoirs. Nor will it be possible forever to murder those who cling to their religious faith simply because their persistence is inconvenient to a government which maintains that a citizen's highest allegiance must be to the state.

The world once sat by and ignored a national policy of intimidation and harassment and murder, eventually genocide, for political convenience. And it soon learned that the bell that tolled for 6 million European Jews tolled for every man. The lesson came high, and it brought unmistakably to the attention of all humanity a moral obligation as old as time—that we are, for better or worse, our brother's keeper.

To express the Senate's outrage at the Soviet repression, I therefore submit this resolution.

Expeditious action by the Senate will demonstrate our profound concern for the safety and welfare of all Soviet Jews.

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

Mr. DOLE. I yield to the distinguished minority leader.

Mr. SCOTT. Mr. President, I commend very warmly the action taken by the distinguished junior Senator from Kansas in this compassionate and concerned demonstration of the wish of the Senate that the Government of the Soviet Union take notice of American public opinion, which is concerned that justice be done to these persons and that mercy be extended to them. I am very glad that the distinguished Senator has moved as he has, and I am very happy to support him in his resolution.

Mr. DOLE. I thank the distinguished minority leader.

I yield to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, this kind of approach by our country represents a tradition going back to 1840, when we first protested inhumanity which we deeply felt was based upon religious discrimination and religious distinction. It is in this high tradition that I think the Soviet Union and its people should be informed how millions of Americans react to this kind of situation.

We have a right to hope and pray that they will hear the voice of humanity, much as they probably are convinced that what they are doing is right, and will pay attention to it, in seeing that these cruel and inhuman punishments are not inflicted and that the burden is lifted from the necks of those Soviet citizens who happen to be of the Jewish faith.

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

Mr. DOLE. I yield.

Mr. CHURCH. Mr. President, I commend the Senator from Kansas for the initiative he has taken here. But I would ask whether he had given any consideration to the comparable problem now faced by the Basque citizens in Spain. Would he have any objection to extend the resolution to include the Basques in Spain who presently face very onerous judgment under the Franco government?

Mr. DOLE. I would prefer to treat that as a separate resolution. I have no objection, but feel perhaps it should be in a separate resolution.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the names of cosponsors.

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

Mr. Dole, Mr. Mathias, Mr. Bellmon, Mr. Fannin, Mr. Schweiker, Mr. Saxbe, Mr. Baker, Mr. Boggs, Mr. Allott, Mr. Brooke.

Mr. Case, Mr. Goodell, Mr. Hansen, Mr. Gurney, Mr. Cook, Mr. Javits, Mr. Percy, Mr. Scott, Mr. Pearson, Mr. Miller.

Mr. Packwood, Mr. Murphy, Mr. Stevens, Mr. Ribicoff, Mr. Proxmire, Mr. Bayh, Mr. Symington, Mr. McGovern, Mr. Hart, Mr. Church.

Mr. McGee, Mr. Jackson, Mr. Magnuson, Mr. Griffin, Mr. Mondale, Mr. Hartke, Mr. Kennedy, Mr. Cranston, Mr. Thurmond, Mr. Muskie.

Mr. DOLE. I also ask unanimous consent to have printed at this point in the RECORD an editorial published in the Washington Daily News of yesterday with reference to the action in the Soviet Union.

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

JUDICIAL MURDER IN RUSSIA

Sentencing in Leningrad of two Jews to death and nine other persons to prison camps for allegedly planning to hijack a Soviet airliner is a brutal, repressive act that tells much about the Kremlin's police state.

We utterly oppose aerial hijacking—whether by Soviet Jews, Arab guerrillas, Black Panthers or assorted psychopaths. It is a crime that endangers innocent passangers and deserves to be punished.

But in the Leningrad case no hijacking took place. The worst that can be charged against the 11 defendants, nine of them Jews who wished to emigrate to Israel, is that they plotted to seize a Soviet plane and fly it to Sweden. To put two "Zionists" before a firing squad for that is savagely excessive punishment.

We have no idea if the 11 are even guilty as charged. Naturally, the trial was closed to the foreign press. No trial record has been or will be made public. The Soviet say all 11 "confessed, pleaded guilty and repented their crimes."

That means less than nothing. After a few weeks in the basements of the dreaded KGB, the Soviet secret police, anybody will confess to anything. This is proved by writings ranging from Arthur Koestler's great novel Darkness at Noon to Khrushchev's famous secret speech to the 20th Soviet Communist Party Congress in 1965.

Also, the efficiency with which the KGB rounded up the Leningrad 11 and some 20 other Jews indicates that the police knew about the alleged "plot" all along. It is even possible that a police agent instigated the escape effort; the tradition of police provocations is strong in Russia, going back to Czarist times.

Interestingly, the Leningrad Jews are charged with violating Article 64A of the Russian Federation Criminal Code. This makes it treason to flee the country. All we can say is any country that makes it a capital crime to try to leave is not a country, but a concentration camp.

Recently, the Soviet rulers have been frightened by the stirrings of the more than three million Jews, many of whom wish to escape from government fostered anti-semitism in the Soviet Union and go to Israel.

The reaction of the ruling clique of communist hierarchs, secret police satraps and Soviet Army marshals is in the purest tradition of the late despot Stalin: arrest, beat, exact confessions, stage show trials, execute—and thus terrorize the survivors into docility.

The new repression is not only aimed at Russia's unfortunate Jews. It is also meant to silence non-Jewish dissidents, scientists, writers and intellectuals who have courageously demanded civil rights and the freedom to think and speak.

In Russia there are no independent courts or judges in political cases. The guilty verdict and death sentences in Leningrad were decided by the Communist Politburo. If Mark Dymshits and Eduard Kuznetsov die before a firing squad, mankind will remember that the trigger fingers belonged to Brezhnev, Kosygin and their cohorts.

Mr. DOLE. I would object to including the suggestion of the Senator from Idaho in this resolution.

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

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I, too, commend the Senator from Kansas for sponsoring this resolution at this time. Indeed, as I interpret this situation, from all the research I have done of the matter and all the data I have been able to gather, their only taint of treason was the fact that they wanted to return to their land of destiny, Israel.

The human heart and the hearts of the world call out for mercy in this case. I am decidedly pleased that the Senator from Kansas has introduced this resolution, and I hope that it will be agreed to unanimously.

Mr. DOLE. I say to the Senator from Rhode Island that, as I understand it, they were charged with violation of article 64(a) of the Russian criminal code, which makes it treason to flee the country. To me, that in itself is an injustice, and that is what the resolution is addressed to.

Mr. PASTORE. After all, I am not very surprised. Theirs is a nation of building walls, not only to let no one in; but also not to permit anyone to get out, and that has been the whole history of the Soviet Union. I think that this resolution at this time, at this season so sacred both to Christianity and to Judaism—is most appropriate.

Again, I say, it is a plea from the hearts of the world.

Mr. CHURCH. Mr. President, I should like to put the Senate on notice that I intend to offer a similar resolution in connection with the problems of the Basque persecution in Spain. I will treat it as a separate matter, as the Senator suggests; but I think that, as it is appropriate for us to take this action, it is also appropriate to take similar action concerning the Basque people.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

EXCISE, ESTATE, AND GIFT TAX ADJUSTMENT ACT OF 1970

Mr. LONG. Mr. President, the majority leader moved the bill involving excise, estate, and gift taxes, but the committee acted to place the substance of this measure on another bill, one which was before the committee. The excise, estate, and gift tax bill had been held at the desk. Therefore, I wish to substitute the bill on which the committee had the privilege of meeting and acting. So I ask unanimous consent to substitute Calendar No. 1455, H.R. 16199, for the pending measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 16199) to establish a working capital fund for the Department of the Treasury.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Excise, Estate, and Gift Tax Adjustment Act of 1970".

(b) Wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—ESTATE AND GIFT TAXES

SEC. 101. ESTATE TAX

(a) ALTERNATE VALUATION.—Section 2032 (relating to alternate valuation) is amended—

(1) by striking out "1 year" each place it appears and inserting in lieu thereof "6 months", and

(2) by striking out "1-year" and inserting in lieu thereof "6-month".

(b) TIME FOR FILING ESTATE TAX RETURNS.—Section 6075(a) (relating to time

for filing estate tax returns) is amended by striking out "15 months" and inserting in lieu thereof "9 months".

(c) CERTAIN REQUESTS SUBJECT TO POWER OF APPOINTMENT.—Section 2055(b)(2(C) is amended by striking out "one year" and inserting in lieu thereof "6 months".

(d) DISCHARGE OF FIDUCIARY FROM PERSONAL LIABILITY FOR ESTATE TAX.—

(1) Section 2204 (relating to discharge of executor from personal liability) is amended

(A) by striking out "EXECUTOR" in the heading of such section and inserting in lieu thereof "FIDUCIARY";

(B) by striking out "If the executor" and inserting in lieu thereof "(a) GENERAL RULE.—If the executor";

(C) by amending the last sentence thereof to read as follows: "The executor, on payment of the amount of which he is notified (other than any amount the time for payment of which is extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment is extended, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge."; and

(D) by adding at the end thereof the following new subsection:

"(b) FIDUCIARY OTHER THAN THE EXECUTOR.—If a fiduciary (not including a fiduciary in respect of the estate of a nonresident decedent) other than the executor makes written application to the Secretary or his delegate for determination of the amount of any estate tax for which the fiduciary may be personally liable, and for discharge from personal liability therefor, the Secretary or his delegate upon the discharge of the executor from personal liability under subsection (a), or upon the expiration of 6 months after the making of such application by the fiduciary, if later, shall notify the fiduciary (1) of the amount of such tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. Such application shall be accompanied by a copy of the instrument, if any, under which such fiduciary is acting, a description of the property held by the fiduciary, and such other information for purposes of carrying out the provisions of this section as the Secretary or his delegate may require by regulations. On payment of the amount of such tax for which it has been determined the fiduciary is liable (other than any amount the time for payment of which has not been extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment has been extended, or on receipt by him of notification of a determination that he is not liable for any such tax, the fiduciary shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing evidencing such discharge."

(2) Sections 6040(2), 6314(c)(2), 6324(a)(3), and 6504(9) are each amended by striking out "executor" each place it appears in the heading and text of such sections and inserting in lieu thereof "fiduciary".

(3) The table of sections for subchapter C of chapter 11 is amended by striking out

"Sec. 2204. Discharge of executor from personal liability."

and inserting in lieu thereof:

"Sec. 2204. Discharge of fiduciary from personal liability."

(e) DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY FOR DECEDENT'S INCOME AND GIFT TAXES.—

(1) Chapter 71 (relating to transferees and fiduciaries) is amended by adding at the end thereof the following new section:

"SEC. 6905. DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY FOR DECEDENT'S INCOME AND GIFT TAXES.

"(a) DISCHARGE OF LIABILITY.— In the case of liability of a decedent for taxes imposed by subtitle A or by chapter 12, if the executor makes written application (filed after the return with respect to such taxes is made and filed in such manner and such form as may be prescribed by regulations of the Secretary or his delegate) for release from personal liability for such taxes, the Secretary or his delegate may notify the executor of the amount of such taxes. The executor, upon payment of the amount of which he is notified, or 1 year after receipt of the application if no notification is made by the Secretary or his delegate before such date, shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

"(b) DEFINITION OF EXECUTOR.—For purposes of this section, the term 'executor' means the executor or administrator of the decedent appointed, qualified, and acting within the United States.

"(c) CROSS REFERENCE.—

"For discharge of executor from personal liability for taxes imposed under chapter 11, see section 2204."

(2) The table of sections for chapter 71 is amended by adding at the end thereof the following:

"Sec. 6905. Discharge of executor from personal liability for decedent's income and gift taxes."

(f) REDUCTION OF PERIOD FOR DISCHARGE OF EXECUTOR FROM PERSONAL LIABILITY.—Effective with respect to the estates of decedents dying after December 31, 1973, sections 2204 and 6905 are each amended by striking out "1 year" and inserting in lieu thereof "9 months".

(g) HOLDING PERIOD OF PROPERTY.—Section 1223 (relating to holding period of property) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

"(A) the basis of such property in the hands of such person is determined under section 1014, and

"(B) such property is sold or otherwise disposed of by such person within 6 months after the decedent's death,

then such person shall be considered to have held such property for more than 6 months."

(h) EXTENSION OF TIME.—The first sentence of paragraph (1) of subsection (a) of section 6161 (relating to extension of time for paying tax) is amended by striking out "6 months" and inserting in lieu thereof "6 months (12 months in the case of estate tax)".

(i) PLACE FOR FILING RETURNS.—

(1) Paragraph (3) of section 6091(b) (relating to place for filing returns or other documents) is amended to read as follows:

"(3) ESTATE TAX RETURNS.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), returns of estate tax required under section 6018 shall be made to the Secretary or his delegate—

"(i) in the internal revenue district in which was the domicile of the decedent at the time of his death, or

"(ii) at a service center serving the internal revenue district referred to in clause (i), as the Secretary or his delegate may by regulations designate.

"(B) EXCEPTION.—If the domicile of the decedent was not in an internal revenue district, or if he had no domicile, the estate tax return required under section 6018 shall be made at such place as the Secretary or his delegate may by regulations designate."

(2) Paragraph (4) of section 6091(b) is amended to read as follows:

"(4) HAND-CARRIED RETURNS.—Notwithstanding paragraph (1), (2), or (3), a return to which paragraph (1)(A), (2)(A), or (3)(A) would apply, but for this paragraph, which is made to the Secretary or his delegate by hand-carrying shall, under regulations prescribed by the Secretary or his delegate, be made in the internal revenue district referred to in paragraph 1(A)(i), (2)(A)(i), or (3)(A)(i), as the case may be."

(j) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall apply with respect to decedents dying after December 31, 1970.

SEC. 102. GIFT TAX.

(a) AMENDMENTS TO SUBCHAPTER A OF CHAPTER 12.—

(1) SECTION 2501.—

(A) Paragraph (1) of subsection (a) of section 2501 is amended to read as follows:

"(1) GENERAL RULE.—For the first calendar quarter of calendar year 1971 and each calendar quarter thereafter a tax, computed as provided in section 2502, is hereby imposed on the transfer of property by gift during such calendar quarter by any individual, resident or nonresident."

(B) Paragraph (4) of such subsection is amended by striking out "calendar year" and inserting in lieu thereof "calendar quarter".

(2) SECTION 2502.—

(A) So much of subsection (a) of section 2502 as precedes the rate schedule is amended to read as follows:

"(a) COMPUTATION OF TAX.—The tax imposed by section 2501 for each calendar quarter shall be an amount equal to the excess of—

"(1) a tax, computed in accordance with the rate schedule set forth in this subsection, on the aggregate sum of the taxable gifts for such calendar quarter and for each of the preceding calendar years and calendar quarters, over

"(2) a tax, computed in accordance with such rate schedule, on the aggregate sum of the taxable gifts for each of the preceding calendar years and calendar quarters."

(B) Subsections (b) and (c) of section 2502 are amended to read as follows:

"(b) CALENDAR QUARTER.—Wherever used in this title in connection with the gift tax imposed by this chapter, the term 'calendar quarter' includes only the first calendar quarter of the calendar year 1971 and succeeding calendar quarters.

"(c) PRECEDING CALENDAR YEARS AND QUARTERS.—Wherever used in this title in connection with the gift tax imposed by this chapter—

"(1) The term 'preceding calendar years' means calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970. The term 'calendar year 1932' includes only the portion of such year after June 6, 1932.

"(2) The term 'preceding calendar quarters' means the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed."

(3) SECTION 2503.—

(A) Subsection (a) of section 2503 is amended to read as follows:

"(a) GENERAL DEFINITION.—The term 'taxable gifts' means, in the case of gifts made after December 31, 1970, the total amount of gifts made during the calendar quarter, less the deductions provided in subchapter C (sec. 2521 and following). In the case of gifts made before January 1, 1971, such term means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C."

(B) The heading and first sentence of subsection (b) of section 2503 are amended to read as follows:

"(b) EXCLUSIONS FROM GIFTS.—In computing taxable gifts for the calendar quarter, in the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year 1971 and subsequent calendar years, $3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsection (a), be included in the total amount of gifts made during such quarter."

(4) SECTION 2504.—

(A) Section 2504 is amended to read as follows:

"SEC. 2504. TAXABLE GIFTS FOR PRECEDING YEARS AND QUARTERS.

"(a) IN GENERAL.—In computing taxable gifts for preceding calendar years or calendar quarters for the purpose of computing the tax for any calendar quarter, there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the years or calendar quarters in which the transfers were made and there shall be allowed such deductions as were provided for under such laws; except that the specific exemption in the amount, if any, allowable under section 2521 shall be applied in all computations in respect of previous calendar years or calendar quarters for the purpose of computing the tax for any calendar year or calendar quarter.

"(b) EXCLUSIONS FROM GIFTS FOR PRECEDING YEARS AND QUARTERS.—In the case of gifts made to any person by the donor during preceding calendar years and calendar quarters, the amount excluded, if any, by the provisions of gift tax laws applicable to the years and calendar quarters in which the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such years and calendar quarters.

"(c) VALUATION OF CERTAIN GIFTS FOR PRECEDING CALENDAR YEARS AND QUARTERS.—If the time has expired within which a tax may be assessed under this chapter or under corresponding provisions of prior laws on the transfer of property by gift made during a preceding calendar year or calendar quarter, as defined in section 2502(c), and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar year or calendar quarter, the value of such gift made in such preceding calendar year or calendar quarter shall, for purposes of computing the tax under this chapter for any calendar quarter, be the value of such gift which was used in computing the tax for the last preceding calendar year or calendar quarter for which a tax under this chapter or under corresponding provisions of prior laws was assessed or paid.

"(d) NET GIFTS.—The term 'net gifts' as used in corresponding provisions of prior laws shall be read as 'taxable gifts' for purposes of this chapter."

(B) The table of sections for subchapter A of chapter 12 is amended by striking out the item relating to section 2504 and inserting lieu thereof the following:

"Sec. 2504. Taxable gifts for preceding years and quarters."

(b) AMENDMENTS TO SUBCHAPTER B OF CHAPTER 12.—

(1) SECTION 2512.—Subsection (b) of section 2512 is amended by striking out "calendar year" and inserting in lieu thereof "calendar quarter".

(2) SECTION 2513.—

(A) Section 2513 is amended by striking out "calendar year" each place it appears and inserting in lieu thereof "calendar quarter".

(B) Subparagraph (A) of subsection (b) (2) of section 2513 is amended to read as follows:

"(A) the consent may not be signified after the 15th day of the second month following the close of such calendar quarter, unless before such 15th day no return has been filed for such calendar quarter by either spouse, in which case the consent may not be signified after a return for such calendar quarter is filed by either spouse;".

(C) Subparagraph (B) of subsection (b) (2) of section 2513 is amended by striking out "such year" and inserting in lieu thereof "such calendar quarter".

(D) Subsection (c) of section 2513 is amended by striking out "15th day of April following the close of such year" and inserting in lieu thereof "15th day of the second month following the close of such calendar quarter".

(E) Subsection (d) of section 2513 is amended by striking out "such year" and inserting in lieu thereof "such calendar quarter".

(3) SECTION 2515.—Subsection (c) of section 2515 is amended by striking out "calendar year" and inserting in lieu thereof "calendar quarter".

(c) AMENDMENTS TO SUBCHAPTER C OF CHAPTER 12.—

(1) SECTION 2521.—Section 2521 is amended to read as follows:

"SEC. 2521. SPECIFIC EXEMPTION.

"In computing taxable gifts for a calendar quarter, there shall be allowed as a deduction in the case of a citizen or resident an exemption of $30,000, less the aggregate of the amounts claimed and allowed as a specific exemption in the computation of gift taxes for the calendar year 1932 and all calendar years and calendar quarters intervening between that calendar year and the calendar quarter for which the tax is being computed under the laws applicable to such years or calendar quarters."

(2) SECTION 2522.—Section 2522 is amended by striking out "year" each place it appears and inserting in lieu thereof "quarter".

(3) SECTION 2523.—Subsection (a) of section 2523 is amended by striking out "year" each place it appears and inserting in lieu thereof "quarter".

(d) MISCELLANEOUS AMENDMENTS.—

(1) Paragraph (2) of subsection (d) of section 1015 (relating to increased basis for gift tax paid) is amended—

(A) by striking out "calendar year" the first place it appears therein and inserting in lieu thereof "calendar quarter (or calendar year if the gift was made before January 1, 1971)", and

(B) by striking out "calendar year" every other place it appears therein and inserting in lieu thereof "calendar quarter or year".

(2) SECTION 2012.

(A) Paragraph (1) of subsection (b) of section 2012 (relating to credit for gift tax) and paragraph (1) of subsection (d) of such section are each amended by striking out "the year" and inserting in lieu thereof "the calendar quarter (or calendar year if the gift was made before January 1, 1971)".

(B) Subsection (d) of section 2012 is amended by striking out "such year" each place it appears therein and inserting in lieu thereof "such quarter or year".

(3) Section 6019 (relating to gift tax returns) is amended to read as follows:

"SEC. 6019. GIFT TAX RETURNS.

"(a) IN GENERAL.—Any individual who in any calendar quarter makes any transfers by gift (other than transfers which under section 2503(b) are not to be included in the total amount of gifts for such quarter and other than qualified charitable transfers) shall make a return for such quarter with respect to the gift tax imposed by subtitle B.

"(b) QUALIFIED CHARITABLE TRANSFERS.—

"(1) RETURN REQUIREMENT.—A return shall be made of any qualified charitable transfer—

"(A) for the first calendar quarter, in the calendar year in which the transfer is made, for which a return is required to be filed under subsection (a), or

"(B) if no return is required to be filed under subparagraph (A), for the fourth calendar quarter in the calendar year in which such transfer is made.

A return made pursuant to the provisions of this paragraph shall be deemed to be a return with respect to any transfer reported as a qualified charitable transfer for the calendar quarter in which such transfer was made.

"(2) DEFINITION OF QUALIFIED CHARITABLE TRANSFER.—For purposes of this section, the term 'qualified charitable transfer' means a transfer by gift with respect to which a deduction is allowable under section 2522 in an amount equal to the amount transferred.

"(c) TENANCY BY THE ENTIRETY.—

"For provisions relating to requirement of return in the case of election as to the treatment of gift by creation of tenancy by the entirety, see section 2515(c)."

(4) Subsection (b) of section 6075 (relating to time for filing gift tax returns) is amended to read as follows:

"(b) GIFT TAX RETURNS.—Returns made under section 6019 (relating to gift taxes) shall be filed on or before the 15th day of the second month following the close of the calendar quarter."

(5) Paragraph (1) of subsection (c) of section 6212 (relating to notice of deficiency) is amended by striking out "calendar year" and inserting in lieu thereof "calendar quarter".

(6) Subsection (b) of section 6214 (relating to determination by Tax Court) is amended to read as follows:

"(b) JURISDICTION OVER OTHER YEARS AND QUARTERS.—The Tax Court in redetermining a deficiency of income tax for any taxable year or of gift tax for any calendar year or calendar quarter shall consider such facts with relation to the taxes for other years or calendar quarters as may be necessary correctly to redetermine the amount of such deficiency, but in so doing shall have no jurisdiction to determine whether or not the tax for any other year or calendar quarter has been overpaid or underpaid."

(7) Subsection (b) of section 6324 (relating to lien for gift tax) is amended by striking out "calendar year" and inserting in lieu thereof "period for which the return was filed".

(8) Paragraph (2) of section 6501(e) (relating to limitations on assessment and collection) is amended by striking out "during the year" and inserting in lieu thereof "during the period for which the return was filed".

(9) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "the same calendar year" each place it appears therein and inserting in lieu thereof "the same calendar year or calendar quarter".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to gifts made after December 31, 1970.

TITLE II—CONTINUATION OF EXCISE TAXES ON PASSENGER AUTOMOBILES AND COMMUNICATIONS SERVICES

SEC. 201. RATES OF TAX.

(a) PASSENGER AUTOMOBILES.—

(1) IN GENERAL.—Section 4061(a)(2)(A) (relating to tax on passenger automobiles, etc.) is amended to read as follows:

"(A) Articles enumerated in subparagraph (B) are taxable at whichever of the following rates is applicable:

"If the article is sold—	The tax rate is—
Before January 1, 1973	7 percent.
During 1973	6 percent.
During 1974, 1975, 1976, or 1977	5 perecnt.
During 1978	4 percent.
During 1979	3 percent.
During 1980	2 percent.
During 1981	1 percent.

The tax imposed by this subsection shall not apply with respect to articles enumerated in subparagraph (B) which are sold by the manufacturer, producer, or importer, after December 31, 1981."

(2) CONFORMING AMENDMENT.—Section 6412(a)(1) (relating to the floor stocks refunds on passenger automobiles, etc.) is amended by striking out "January 1, 1971, January 1, 1972, January 1, 1973, or January 1, 1974", and inserting in lieu thereof "January 1 of 1973, 1974, 1978, 1979, 1980, 1981, or 1982".

(b) COMMUNICATIONS SERVICES.—

(1) CONTINUATION OF TAX.—Section 4251(a)(2) (relating to tax on certain communications services) is amended by striking out the table and inserting in lieu thereof the following table:

"Amounts paid pursuant to bills first rendered—	*Percent*
Before January 1, 1973	10
During 1973	9
During 1974	8
During 1975	7
During 1976	6
During 1977	5
During 1978	4
During 1979	3
During 1980	2
During 1981	1".

(2) CONFORMING AMENDMENT.—Section 4251(b) (relating to termination of tax) is amended by striking out "January 1, 1974", and inserting in lieu thereof "January 1, 1982".

(3) REPEAL OF SUBCHAPTER B OF CHAPTER 33.—Section 105 (b)(3) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266) is amended to read as follows:

"(3) REPEAL OF SUBCHAPTER B OF CHAPTER 33.— Effective with respect to amounts paid pursuant to bills first rendered on or after January 1, 1982, subchapter B of chapter 33 (relating to the tax on communications) is repealed. For purposes of the preceding sentence, in the case of communications services rendered before November 1, 1981, for which a bill has not been rendered before January 1, 1982, a bill shall be treated as having been first rendered on December 31, 1981. Effective January 1, 1982, the table of subchapters for chapter 33 is amended by striking out the item relating to such subchapter B."

TITLE III—TECHNICAL EXCISE TAX CHANGES

SEC. 301. CONSTRUCTIVE SALE PRICE.

(a) DETERMINATION OF CONSTRUCTIVE SALE PRICE.—Section 4216(b) (relating to constructive sale price) is amended by adding at the end thereof the following new paragraphs:

"(5) CONSTRUCTIVE SALE PRICE IN THE CASE OF AUTOMOBILES, TRUCKS, ETC.—In the case of articles the sale of which is taxable under section 4061(a) (relating to automobiles, trucks, etc.), for purposes of paragraph (1), if—

"(A) the manufacturer, producer, or importer of the article regularly sells such article to a distributor which is a member of the same affiliated group of corporations (as defined in section 1504(a)) as the manufacturer, producer, or importer, and

"(B) such distributor regularly sells such article to one or more independent retailers, the constructive sale price of such article shall be 98½ percent of the lowest price for which such distributor regularly sells such article in arm's-length transactions to such independent retailers. The price determined under this paragraph shall not be adjusted for any exclusion (except for the tax imposed on such article) or readjustments under subsections (a) and (f) and under section 6416(b)(1).

"(6) DEFINITION OF LOWEST PRICE.—For purposes of paragraphs (1), (3), and (5), the lowest price shall be determined—

"(A) without requiring that any given percentage of sales be made at that price, and

"(B) without including any fixed amount to which the purchaser has a right as a result of contractual arrangements existing at the time of the sale."

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of paragraph (3) of section 4216(b) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (5)".

(2) Paragraphs (3) and (4) of section 4216(b) are amended—

(A) by striking out "Fair market price" in the heading and inserting in lieu thereof "Constructive sale price";

(B) by striking out "fair market price" each place it appears in the text and inserting in lieu thereof "constructive sale price"; and

(C) by striking out "paragraph (1)(C)" and inserting in lieu thereof "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles sold after December 31, 1970; except that section 4216(b)(6) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall also apply to (1) the application of paragraph (1) of such section 4216(b) to articles sold after June 30, 1962, and before January 1, 1971, and (2) the application of paragraph (3) of such section 4216(b) to article sold after December 31, 1969, and before January 1, 1971.

SEC. 302. CREDITS IN THE CASE OF CERTAIN FURTHER MANUFACTURING.

(a) IN GENERAL.—

(1) Section 6416(b)(3) (relating to tax-paid articles used for further manufacture) is amended—

(A) by striking out "to a second manufacturer or producer, such tax shall be deemed to be an overpayment by such second manufacturer or producer if" and inserting in lieu thereof "and such article is sold to a subsequent manufacturer or producer before being used, such tax shall be deemed to be an overpayment by such subsequent manufacturer or producer if"; and

(B) by striking out "the second manufacturer" each place it appears in subparagraphs (A), (B), (C), (E), and (F) and inserting in lieu thereof "the subsequent manufacturer".

(2) Section 6416(c) (relating to credit for tax paid on tires or inner tubes) is amended by striking out the last sentence thereof.

(b) CONFORMING AMENDMENT.—Section 6416(b)(2) (relating to specified uses and resales) is amended by striking out subparagraph (E).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall apply only with respect to claims for credit or refund filed after the date of the enactment of this Act, but only if the filing of the claim is not barred on the day after the date of the enactment of this Act by any law or rule of law.

SEC. 303. CERTAIN CAMPER UNITS

(a) GENERAL RULE.—Section 4063(a)(1)(B) (relating to exemptions for camper coaches, etc.) is amended by inserting "or camping accommodations" after "living quarters".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall apply with respect to sales made on or after the date of the enactment of this Act.

SEC. 304. NEW CAR LABELS TO SHOW RATE OF APPLICABLE FEDERAL MANUFACTURERS EXCISE TAX

(a) GENERAL RULE.—In the case of any new automobile distributed in commerce after March 31, 1971, on the sale of which by the manufacturer, producer, or importer tax was imposed by section 4061(a) of the Internal Revenue Code of 1954, any person required by section 3 of the Automobile Information Disclosure Act (15 U.S.C., sec. 1232) to affix a label to such new automobile shall include in such label a clear, distinct, and legible endorsement stating—

(1) that Federal excise tax was imposed on such sale, and

(2) the percentage rate at which such tax was imposed.

(b) PENALTY.—Any person required by subsection (a) of this section to endorse any label who willfully fails to endorse clearly, distinctly, and legibly such label as required by subsection (a), or who makes a false endorsement of such label, shall be fined not more than $1,000. Such failure or false endorsement with respect to each automobile shall constitute a separate offense.

TITLE IV—TREASURY DEPARTMENT WORKING CAPITAL FUND

SEC. 401. ESTABLISHMENT OF FUND

There is hereby established a working capital fund for the Department of the Treasury, which shall be available, without fiscal year limitation, for expenses and equipment necessary for maintenance and operation of such administrative services as the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, determines may be performed more advantageously and more economically as central services. The capital of the fund shall not exceed $1,000,000 and shall consist of the amount of the fair and reasonable value of such supply inventories, equipment, and other assets and inventories on order, pertaining to the services to be carried on by the fund, as the Secretary of the Treasury may transfer to the fund, less the related liabilities and unpaid obligations, together with any appropriations made for the purpose of providing capital. The fund shall be reimbursed, or credited with advance payments, from applicable appropriations and funds of the Department of the Treasury, other Federal agencies, and other sources authorized by law, for supplies and services at rates which will recover the expense of operations, including accrual of annual leave and depreciation of plant and equipment of the fund. The fund shall also be credited with other receipts from sale or exchange of property or in payment for loss or damage to property held by the fund. There shall be transferred into the Treasury as miscellaneous receipts, as of the close of each fiscal year, earnings which the Secretary of the Treasury determines to be excess to the needs of the fund. There are hereby authorized to be appropriated such amounts as may be necessary to provide capital for the fund.

Amend the title so as to read: "An Act to establish a working capital fund for the Department of the Treasury; 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 communications services; and for other purposes."

Mr. LONG. Mr. President, let me explain that when the excise, estate, and gift tax bill came to the Senate, objection was made to that bill going to the

Committee on Finance and, therefore, the bill went to the calendar. The committee felt a duty to act on that measure, however, and to consider it. Therefore, the committee simply took a House passed revenue bill, which was the noncontroversial bill to establish a working fund for the Treasury, and simply added to that bill such provisions of the House passed Excise, Estate, and Gift Tax Adjustments Act of 1970 as the committee found justified, closed the loophole that existed with regard to those taxes, and reported this matter to the Senate.

These provisions will improve our budgetary situation by raising $3.4 billion of additional revenue for the fiscal year 1972 and $700 million of additional revenue for the fiscal year 1971. This is achieved by accelerating the collection of estate and gift taxes and by continuing the excise tax on autos and communications services at present rates for a period of 2 years.

While providing this increase in revenue is the principal reason for passing this bill now, the bill is also advantageous in that it makes a significant contribution to tax reform. This is because the speedup in estate tax collections improves estate tax administration by making possible prompter distributions of bequests to beneficiaries. In addition, the bill provides a workable plan for gradually reducing and removing the excise taxes on autos and communications services from our tax structure.

The fourth title of the pending measure—which is the House-passed bill—provides for the establishment of a limited Treasury working capital fund. At present, the Treasury Department is performing on a reimbursable basis various centralized services for a number of its bureaus. The proposed working capital fund would consolidate these operations, place them on a more systematic and businesslike basis, and assist the Treasury Department in presenting a more accurate cost-base budget.

In the Finance Committee we were forced to add the excise and estate and gift tax bill to a small bill pending in our committee because this bill was not referred to our committee. We thought that as the Finance Committee of the U.S. Senate, we should consider important legislation of this type before action is taken by the Senate. We took that action in the only way we could—by adding the excise and estate and gift tax bill to a minor bill before our committee.

Let me say one thing more on the general subject while I am on it. We believe that it would be fiscally irresponsible not to provide this $3.4 billion in revenue for next year when we are currently faced with a deficit of perhaps $15 billion. Because of this, we intend to resist amendments—even good provisions—because as the Senators know one amendment invites another. If we let this process begin, it is likely to keep on going and I do not believe this bill can be enacted if any appreciable number of amendments are added.

I should like now to comment on some of the more important aspects of the tax changes made by the bill. In the case of the estate tax, the principal change is to shorten the time allowed to file the estate tax return and to pay the estate tax from 15 months after the decedent's death to 9 months after his death. This change, which is effective for decedents dying after December 31, 1970, will not only speed up the collection of the tax, but will also decrease the period of estate tax administration. It has the advantage of aiding in the more rapid distribution of property to beneficiaries. Anyone who is interested in the objective of prompt distribution of bequests should support this provision.

There are additional good reasons for the acceleration in estate and gift tax collections. We already collect most Federal taxes on a current basis. The individual income tax and the corporate income tax, for instance, are now collected currently under the pay-as-you-go system. In this setting, I do not see why we should continue to permit long lags in the payment of the estate and gift taxes. These collection lags merely deprive the Federal Government of tax revenues at a time when we badly need these revenues for budgetary reasons. In addition, because the revenue is received late, the Government has to borrow more and incur heavier expenses for interest.

The bill also makes a number of changes to facilitate adjustment to the new 9-month filing requirement for the estate tax return. For example, it provides that the alternate valuation date for property included in the gross estate is to be 6 months after the decedent's death rather than 1 year after that date. More liberal rules are provided for extending the time for payment of the estate tax if the request for postponing the payment of the estate tax beyond 9 months of the decedent's death is due to reasonable cause. In such cases, the Commissioner of Internal Revenue is given authority to extend the time for payment of the estate tax for a period up to 12 months instead of for 6 months as under present law.

The pending legislation also makes it easier and less costly for the estate to raise funds for the payment of the estate tax by providing that property acquired from decedents will be deemed to have been held for more than 6 months. This permits gains from the sale of such property by an executor to be treated as long-term capital gains even though the sale occurs shortly after the death of a decedent.

Finally, the bill liberalizes the rules under which an executor can obtain discharge from personal liability for a decedent's taxes.

To accelerate payment of gift tax liabilities, the bill requires the filing of gift tax returns and the payment of gift taxes on a quarterly rather than on an annual basis. Under the new procedure, which is effective for gifts made after December 31, 1970, the gift tax return and the payment of the tax is to be due on or before the 15th day of the second month following the close of the calendar quarter in which the gift was made. For example, the gift tax return and payment for a gift made on February 1, 1971, will be due by May 15, 1971.

I want to stress that in providing for the acceleration of gift tax collections, the bill makes no change in the way gift tax liability is determined. The present gift tax rates, exclusions, and deductions remain the same. All we are doing here is seeing to it that the Government will receive the gift tax collections more promptly.

I also want to point out that under the legislation quarterly gift tax returns will not be required for a charitable gift. Instead, the donor will report charitable transfers on a return for the fourth quarter of the calendar year or at such earlier time as he is required to file a return for a taxable gift. This exception from the requirement to file quarterly gift tax returns avoids any possible disruption of the present patterns of making gifts to charitable organizations.

Let me turn now to the proposed extension of the present excise tax rates on passenger automobiles and communications services. It was not pleasant for the Finance Committee to recommend the continuation of these rates and I am certainly not happy about this continuation. I know that most of us do not want to see these taxes continued on a permanent basis. The Congress has in effect said this a number of times by scheduling the reduction and eventual elimination of these taxes. But the sad fact is that with the present state of the budget, we just cannot afford the immediate large revenue losses that would result in fiscal 1971 and 1972 if the presently scheduled reductions were permitted to take effect. As a result, the bill continues for 2 more years—for calendar years 1971 and 1972—the present tax rates on passenger automobiles and communications services. The resulting revenue increase will amount to $630 million in fiscal 1971 and $1,865 million in fiscal 1972.

We have adopted a schedule for future excise tax reductions which we believe will make it unnecessary to continue excise tax rates in future years. The reductions scheduled in the past have generally been unsuccessful because they provided for relatively large annual reductions involving large revenue losses. Each time the scheduled reductions came due, we found that we could not afford them. In contrast, the automatic reductions provided by this legislation are gradual—they involve rate reductions of not more than 1 percentage point in any one year. This greatly increases the chances that the reductions will actually take effect as scheduled. This is because the revenue loss for any one year will be small, particularly in view of the offsetting revenue collected as a result of the normal growth in the bases of the auto and communications taxes over the years.

In summary, the pending legislation provides that the current tax rates of 7 percent for passenger automobiles and 10 percent for communication services are to continue through 1972. Beginning in calendar year 1973, the rates of these taxes are then generally reduced by 1 percentage point per year until they are

completely eliminated as of January 1, 1982. However, the tax on passenger autos is kept at 5 percent from 1974 through 1977. This is done so the communications tax, which is now higher than the auto tax, can be brought down to the same level as the auto tax, with the result that both taxes can be repealed as of the same date.

Finally, the bill makes a number of technical changes to make the operation of the manufacturers' excise taxes fairer. One such change concerns the constructive sales price on which the tax is computed where a manufacturer of an automobile or truck regularly sells to an affiliated distributor which then regularly sells to independent retailers. The 1969 act and prior rulings of the Internal Revenue Service would allow manufacturers to use a constructive price for this purpose amounting to 90 percent of the lowest price for which the affiliated distributor regularly sells the item in arm's-length transactions to independent retailers. This was intended to equalize the impact of taxes in industries where some manufacturers regularly sell through affiliated wholesalers and other manufacturers distribute their products through independent wholesalers. This is not the situation in the auto and truck industry, however, since in this industry manufacturers typically distribute their products by selling directly to retailers. As a result, as matters now stand, there is an incentive for auto and truck manufacturers to create affiliated wholesale distributors just to qualify for the 90-percent treatment. This would result in a revenue loss to the Government of between $75 million and $150 million a year.

The pending legislation prevents auto and truck manufacturers from securing these unintended benefits by raising the constructive sales price used for tax purposes where they sell to affiliated wholesale distributors. In these cases, the tax is to be computed on 98.5 percent of the lowest price for which the affiliated distributor regularly sells these items in arm's-length transactions to independent retailers. In this respect, the bill now before us amends the House-passed provision which would have set this figure at 97 percent. The presence of the 98.5-percent figure in the pending bill reflects the belief of the Finance Committee that this figure would be more effective in eliminating unintended benefits.

The bill reported by the Senate Finance Committee does not contain the rule found in the House bill dealing with transportation charges in determining the lowest price for which an article is regularly sold. The committee decided that this language of the House bill was not necessary because it does not change present administrative practices, which is to determine the lowest price for which an article is regularly sold. The committee decided that this language of the House bill was not necessary because it does not change present administrative practice, which is to determine the lowest price by taking into account the price of the article including the lowest amount of transportation charges. At this point I ask unanimous consent to insert in the RECORD a letter from the Treasury Department describing its position and its understanding of how existing law has been interpreted and will be interpreted in the future.

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 29, 1970.

DEAR SENATOR LONG: You have requested a statement as to the administrative practice in determining the price for which an article is sold, insofar as transportation charges are concerned, for purposes of section 4216 which establishes the tax base for the manufacturers excise tax.

Generally speaking the sale price, both for purposes of section 4216(a) and 4216(b), includes transportation charges. In attempting to determine a fair market price, the administrative practice is to look to the methods by which a manufacturer ordinarily and customarily sells his products. In the passenger car industry, the general custom and practice is to sell vehicles to dealers on a delivered basis. Transportation charges are frequently equalized for specified freight areas established by the manufacturer. In determining lowest price" for purposes of proposed section 4216(b)(6) of H.R. 19868, we would take into account the lowest charge made at a uniform or weighted rate for the lowest such freight district as is the present custom and practice of each manufacturer. This also represents our present administrative practice in the absence of H.R. 19868.

It has been asserted that there are deliveries to a dealer's customer at the factory with respect to which there are no transportation charges. We do not regard this as the ordinary method of distribution and sale in the industry and accordingly would not determine the lowest price by excluding all transportation charges even where some such accommodation sales are made. Instead, as stated above, we would look to the lowest transportation charges regularly imposed by reference to the lowest freight district or other customary practice of the manufacturer in distributing automobiles through independent dealers in such automobiles.

Sincerely,

JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. LONG. Mr. President, while the Treasury statement of its administrative practice does not appear to deal with the situation where an article is sold to independent retail dealers for a standard basic price without any transportation charge, it is understood that if bona fide arm's length sales have been made at such price in great enough volume so that those sales have not been engaged in primarily to establish a lower tax base, the basic price without any transportation charge will be considered the lowest price.

A question also has been raised as to the applicability of these constructive sale price rules when an automobile manufacturer sells an automobile to its affiliated distributor at the same price for which the affiliated distributor, in turn, sells to unrelated retailers or unrelated wholesalers. In such a situation, the price by the manufacturer to its affiliated distributor clearly is not less than the fair market price. Since the constructive sale price rules apply only where the sale by the manufacturer is at less than the fair market price and, as I have just indicated, in this case the sale is at not less than the fair market price, it is clear that the constructive sale price rules do not apply.

Consequently, the tax base in this case would be determined just as though the original sale of the automobile had been to an unrelated party and the manufacturer is entitled to adjust the tax base in accordance with the provisions of section 4216(a), 4216(f), and 6416(b)(1), dealing with transportation charges, cooperative operating charges, and price readjustment.

In other words, a manufacturer that believes that the rules of the bill result in a tax base that is too high, but that wishes to continue to use an affiliated distributor for nontax reasons, can avoid the restrictive provisions of the bill by selling to the distributor at the same price that the distributor sells to unrelated parties.

Another change made by the bill prevents items subject to manufacturers' excise taxes from being included in the tax base more than once and excludes from the base of manufacturers' taxes retailing or distributing markups as distinguished from manufacturers' markups.

The bill also extends the present exemption for camper coaches which is now granted under the truck tax to articles designed to be used primarily for camping accommodations; for example, certain camper caps designed for mounting on pickup trucks which, together with the truck, provides an area for sleeping quarters.

Finally, the bill provides a means to alert the purchasing public that new autos are subject to manufacturers' excise tax. It requires that the labels affixed to new autos distributed in commerce after March 31, 1971, show that Federal excise tax was imposed and the percentage rate at which it was imposed.

These then are the main features of the bill. I think that, when we look at these features, the merit of the pending legislation becomes apparent. It not only raises significant amounts of revenue urgently needed for budgetary reasons; it also raises this revenue in a responsible fashion—in a way that improves our tax system and makes it fairer.

I urge the Senate to adopt this measure promptly. The House has already done its part by passing the legislation in practically the identical form in which it now appears before us. We must now do our part. Prompt passage is particularly urgent in view of the fact that we are now in the closing days of this session.

The PRESIDING OFFICER (Mr. MUSKIE). Without objection, the Chair now directs that Calendar No. 1467, H.R. 19868, be returned to the Calendar.

Without objection, the Senate will proceed to the consideration of H.R. 16199.

The bill is open to amendment.

Mr. MILLER. 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 proceeded to read the amendment.

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

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

The text of the amendment is as follows:

At the end of the bill add the following new section:

SEC. —. (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 secions 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, the amendment I have offered is designed to cure a deficiency in the minimum tax law. I am authorized by the Finance Committee to state that it has approved the amendment.

Last year, in conference between the two Houses, it was found that a defect existed in the minimum tax as passed by the Senate, but unfortunately the language needed to cure the defect was not before the conference, and therefore there was nothing we could do about it.

In brief, what happens is this: In the case of taxpayers who have a more or less steady amount of tax preferences and Federal income tax, they may well not have any minimum tax to pay at all; but in the case of taxpayers—individuals or corporations—which have fluctuations in their businesses so that in 1 year they may have a high amount of tax preferences and a low income tax and the next year they may have no tax preferences at all but a high income tax, the latter type of businesses are discriminated against.

The philosophy behind the minimum tax, as explained on the floor of the Senate, was that those people who do not pay very much or no income tax at all, as a result of tax preferences, should be required to pay a minimum tax; but those who pay a reasonable amount of tax in comparison with their tax preferences should not have to pay a minimum tax.

In order to cure the defect, the amendment provides for a 3-year carryback of Federal income tax in excess of tax preferences in excess of $30,000, and a 5-year carryover.

We used the same approach taken in the net operating loss deduction. Everyone is familiar with how that operates. That is how the amendment would operate. We could have proposed an unlimited carryover of unused taxes against tax preferences but there are complications if that extends over a long period of time. The 8-year period besides the taxable year will reasonably satisfy the need for equity and prevent the discrimination which exists in the present law.

May I say further that no discrimination has yet occurred; but if we do not take action now, then discrimination will occur, because there are some businesses whose business years ended last January 31, or the end of February, or last March 31. To prevent complexities, it is necessary to take action at this time, and that is why I have offered my amendment to the bill.

I understand that the distinguished chairman is thoroughly familiar with this problem.

Mr. LONG. Mr. President, I think I should explain that this amendment involves a large amount of revenue. It is estimated that it involves roughly $100 million out of approximately $700 million that the minimum tax would collect. It is based on the fact that the minimum tax was meant to apply to situations where a taxpayer has a great amount of tax preference items and pays very little in taxes, although, in fact, in an economic sense, he makes a great deal of money. It was never really intended to apply to a situation where the reason he pays little taxes this year is that he paid a tremendous amount last year or vice versa for the succeeding year.

The Senator's amendment improves the equity of the provision. The Senator from Iowa is the author on the floor of the feature minimum tax, which is now the law and which reduces the tax base by the amount of the regular income tax paid. It was neither his intention, nor that of those of us who supported the amendment, that we wanted to impose a heavier tax on someone just because he had heavy taxes in one year and light taxes in another. Therefore, we do not object to the amendment.

While the Treasury Department does not support the amendment, they do not do so largely on the grounds that it is complicated. However, they admit that equity and justice are on the side of the amendment.

So, as far as I am concerned, it was my impression that the conferees on the part of the House understood the amendment, that they agreed with the merits of the position and probably would have agreed could we have considered in conference at that time.

I would be willing to agree to the amendment and discuss it with the House if they are so disposed.

Mr. MILLER. Mr. President, I appreciate the comments of the Senator. He was one of the conferees a year ago. Every one of the conferees knew what the problem was. The Senator made the comment that the amendment would not unduly complicate things. It certainly would not unduly complicate things any more than the net operating loss deduction complicates the tax law.

Mr. LONG. The income tax law is frightfully complicated to begin with. I am sure that anyone confronted with the carryover situation to which the Senator's amendment refers would welcome the amendment.

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.

Mr. CANNON. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed and that it be printed in the RECORD.

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

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

On page 28, after line 6, insert the following:

"Sec. 305. Change in tax on non-turbine-powered aircraft

"(a) Exemption of First 2,500 Pounds.—Section 4491(a)(2) (relating to tax on use of civil aircraft) is amended by striking out clause (A) and inserting in lieu thereof '(A) in the case of an aircraft (other than a turbine-engine-powered aircraft), 2 cents a pound for each pound of the maximum certificated takeoff weight in excess of 2,500 pounds, or'.

"(b) Effective Date.—The amendment made by subsection (a) shall take effect on July 1, 1971.".

Mr. CANNON. Mr. President, this is an amendment that I offered yesterday on the social security bill. At the suggestion

of the distinguished chairman that I withdrew it from that bill and offer it on the excise tax bill, that is what I am doing.

The bill remedies an inequity that was written into the law on the passage of the measure dealing with airports last year.

The law now says that a person owning a small airplane, a non-turbine-powered airplane, must pay a $25 registration fee if the airplane weighs less than 2,500 pounds gross weight. If it goes over that weight, he must pay a $25 registration fee plus a poundage fee at 2 cents a pound.

It does not say 2 cents a pound above 2,500 pounds. If a man has an airplane weighing 2,600 pounds, he must pay $25 registration fee and 2 cents a pound for the entire 2,600 pounds.

That was not the intention of this member of the conference committee when we worked out a solution in conference. We have already hit these people who are engaged in general aviation with an added fuel tax this year, more than the Senate passed, I might add, because the House would not agree to a lesser amount and the Senate did not propose a poundage fee at all.

I am suggesting that we make it clear in this amendment that a man would pay a registration fee of $25 and 2 cents a pound above 2,500 pounds to remedy this glaring inequity.

I hope that the distinguished chairman, as he indicated on yesterday, would be willing to accept the amendment and take it to conference.

Mr. LONG. Mr. President, I thank the Senator. I believe that last night—I am getting groggy from these long hours—I told the Senator that if he offered his amendment on some other bill, I would be glad to take it to conference. His amendment is logical and has equity in it.

Our staff advises me that there is a notch here and that there is a problem.

I would be glad to agree to take the amendment to conference for consideration.

Mr. CANNON. Mr. President, I thank the distinguished chairman of the committee.

The PRESIDING OFFICER (Mr. FANNIN). The question is on agreeing to the amendment of the Senator from Nevada.

The amendment was agreed to.

Mr. MILLER. Mr. President, H.R. 16199 as reported out by the Finance Committee omitted a provision dealing with the treatment of transportation charges for purposes of constructive sales price which was part of section 301 of H.R. 19868 as it was passed by the House. The report of the Senate Finance Committee also omits the discussion of this matter contained in the report of the Ways and Means Committee.

In the short time available to the Finance Committee to study this important tax legislation, the committee could not determine the effect of this provision. It is now my understanding that the objective of the House and the Finance Committee will be met if the Treasury Department administers the constructive price rules in accordance with the transportation charge provision passed by the House. That is, where the basic price of an article is a standard amount and varying charges are added for transportation to determine the total price, the lowest price is obviously that which includes the smallest transportation charge.

Similarly, where there is an established practice of selling the article without any transportation charge, the lowest price would clearly be the basic price without adding any transportation charge. Indeed, according to my information, if some higher transportation charge were used the effect would be to impose a tax penalty on automobile manufacturers who sell to affiliated distributors. It certainly was not the intent of the committee to impose such a penalty.

Mr. President, I believe that this accords with the intention of the committee and of the House and of the practice of the Treasury Department. I would merely like to have this confirmed by our distinguished chairman.

Mr. LONG. Mr. President, what the Senator says is essentially correct. I have already discussed this matter on my own time. What I have said, he is privileged to read from the RECORD. I will say that it is basically the same thing the Senator is stating.

Mr. MILLER. Mr. President, I thank the Senator. I understood that the Senator had discussed this matter, but I thought it would be a good idea for other members of the committee to confirm this interpretation on the Senate floor so that there will not be any question about the legislative history and what is intended by the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The committee amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 16199) was passed.

Mr. LONG. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. FANNIN) appointed Mr. LONG, Mr. ANDERSON, Mr. TALMADGE, Mr. WILLIAMS of Delaware, and Mr. BENNETT conferees on the part of the Senate.

Mr. GRIFFIN. 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. 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.

Mr. LONG. Mr. President, I ask unanimous consent that the vote by which the bill (H.R. 16199) was passed be reconsidered.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that Calendar No. 1467, H.R. 19868, be indefinitely postponed.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

REGULATION OF THE PRACTICE OF PSYCHOLOGY IN THE DISTRICT OF COLUMBIA—CONFERENCE REPORT

Mr. MANSFIELD. 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 (S. 1626) to regulate the practice of psychology in the District of Columbia.

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

The PRESIDING OFFICER (Mr. FANNIN). 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 today.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDER FOR RECOGNITION OF SENATOR GOODELL ON THURSDAY, DECEMBER 31, 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that after the approval of the Journal on Thursday the distinguished Senator from New York (Mr. GOODELL) be recognized for not to exceed 20 minutes.

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

ORDER FOR RECESS UNTIL 9 A.M. WEDNESDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

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

JURISDICTION AND POLICING POWER OF GSA SPECIAL POLICEMEN

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 1457, S. 4426.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read the bill by title, as follows:

A bill (S. 4426) to amend the Act of June 1, 1948, to increase the jurisdiction and policing power of General Services Administration special policemen, to increase the penalties for violations of rules and regulations promulgated thereunder by the General Services Administration for the protection of public buildings, and to prohibit certain conduct in or near offices of the Government.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, 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 first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), is amended to read as follows:

"That the Administrator of General Services or officials of the General Services Administration duly authorized by him may appoint uniformed guards of said Administration as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas owned or occupied by the United States and under the charge and control of the General Services Administration. Such special policemen shall have the same powers as sheriffs and constables upon such property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the General Services Administration for the property under this charge and control. The jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

SEC. 2. Section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c), is amended to read as follows:

"SEC. 4. Whoever violates any rule or regulation promulgated pursuant to section 2 of this Act shall be fined not more than $500, or imprisoned not more than six months, or both.".

SEC. 3. The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), is amended by adding at the end thereof the following new section:

"SEC. 6. (a) Whoever knowingly and willfully—

"(1) utters loud, threatening, or abusive language, or engages in disorderly or disruptive conduct, within or near any office of the United States Government situated upon premises under the charge and control of the General Services Administration with intent to impede, disrupt, or disturb the orderly conduct of Government business within that office;

"(2) obstructs or impedes ingress or egress to or from any such office; or

"(3) engages in any act of physical violence within such office or upon such premises,

shall be fined not more than $500, or imprisoned not more than six months, or both.

"(b) Nothing contained in this section shall forbid any act of any officer or employee of the United States which is performed in the lawful discharge of his official duties.

"(c) As used in this section, the term 'act of physical violence' means any act involving (1) an assault or any other infliction or threat of infliction of death or bodily harm upon any individual, or (2) damage to or destruction of any real property or personal property.".

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-1445), explaining the purposes of the measure.

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

PURPOSE

The primary purpose of this bill is to strengthen the authority of the Administrator of General Services in carrying out his assigned duty relative to the care and protection of property of the United States, and to give additional protection to Government employees in the performance of their duties.

Under existing law, the jurisdiction and policing power of GSA special policemen is limited to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction. This limitation, according to the Administrator of General Services, severely restricts the authority of such policemen in property located in areas over which the United States has only proprietoria: jurisdiction and over leased space. In addition, although the Administrator is authorized to promulgate rules and regulations and to fix the penalty for violations thereof, that authority is limited to a maximum fine of $50, or imprisonment for not more than 30 days, or both. Furthermore, there is presently no general criminal statute covering disruptive conduct in or near Government offices.

This bill would (1) enlarge the jurisdiction and policing powers of General Services Administration special policemen to cover all property owned or occupied by the U.S. Government which is under the charge and control of the General Services Administration, without regard to whether the United States has acquired exclusive or concurrent criminal jurisdiction over such property; (2) increase the penalty for violations of rules and regulations promulgated by the Administrator to a maximum fine of $500, or imprisonment for not more than 6 months, or both; (3) provide specific language detailing the prohibited acts, to include (*a*) loud, threatening and abusive language, (*b*) disorderly or disruptive conduct within or near U.S. Government offices under the charge and control of the General Services Administration, (*c*) impeding or obstructing the orderly conduct of Government business in such offices and (*d*) engaging in acts of physical violence therein, including assault or threat of infliction of death or bodily harm to individuals, or destruction of real or personal property; and (4) provide the same criminal penalties for such conduct as are provided for violations of the General Services Administration's rules and regulations. This latter provision is similar to that enacted in the 90th Congress for the protection of the U.S. Capitol Buildings and Grounds.

BACKGROUND

The act of June 1, 1948 (62 Stat. 281, Public Law 566, 80th Cong.) authorized the Federal Works Administrator to (1) appoint special policemen for duty on Federal property; (2) make all necessary rules and regulations for the government of such property under the charge and control of the Federal Works Agency; and (3) fix the penalty for the violation of such rules and regulations. The act of June 30, 1949 (Federal Property and Administrative Services Act) abolished the Federal Works Agency and the office of Administrator and transferred their functions to the Administrator of General Services and the General Services Administration. (63 Stat. 377, 380).

Under the provisions of the 1948 act, the jurisdiction and policing power of General Services Administration special policemen are limited to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction, and the penalties permitted are limited to a fine of not more than $50, imprisonment for not more than 30 days, or both.

Since a very large number of Federal offices are located in leased property, or in areas over which the United States has only a proprietorial interest, the authority of the special policemen is severely restricted, and the Federal Government must rely upon local law enforcement officials. The Administrator of General Services has advised the committee that, due to the increasing number of demonstrations, bombings and bomb threats involving buildings owned or leased by the Federal Government, increased authority is needed immediately to enable the Administrator of General Services to carry out his assigned duty of caring for and protecting Federal property. The increased penalty is expected to serve as a deterrent to future acts of violence and to make enforcement of the rules and regulations promulgated by the Administrator more effective.

Favorable action on S. 4426 has been recommended by the Office of Management and Budget, the Department of Justice and the Department of the Army, on behalf of the Department of Defense. (Agency comments are set forth in an appendix to this report.)

CONCLUSION

The committee concurs with the Administrator of General Services, relative to the need for increased authority to enable GSA to carry out its assigned responsibility of protecting Federal property. The increase in bombings, bomb threats, and demonstrations in and around buildings which are owned or leased by the Federal Government has disrupted and impeded the orderly conduct of Government business. Although GSA policemen are stationed in these buildings, they are not permitted to enforce applicable laws unless the Federal Government has acquired exclusive or concurrent criminal jurisdiction over such property. Enactment of S. 4426 should supply the necessary authority and eliminate the need for reliance solely upon local law enforcement authorities, many of whom are already overburdened.

The committee has taken care to insure that enactment of this bill will not interfere with the exercise of individual rights guaranteed by the Constitution.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of the last three items on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will proceed to state the last three items on the Calendar, beginning with Calendar No. 1527.

ENVIRONMENTAL REPORT

The concurrent resolution (H. Con. Res. 771) for the printing of environmental report was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in

the RECORD an excerpt from the report (No. 91–1516), explaining the purposes of the measure.

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

House Concurrent Resolution 771 would provide for the printing for the use of the House Committee on Government Operations of 5,000 additional copies of the hearings entitled "Effects of Population Growth on Natural Resources and the Environment," held by its Subcommittee on Conservation and Natural Resources in September 1969.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

Back to press, 1st 1,000 copies	$1,247.96
4,000 additional copies at $311.96 per thousand	1,247.84
Total estimated cost, H. Con. Res. 771	2,495.80

PRINTING OF COMMITTEE DOCUMENT

The concurrent resolution (H. Con. Res. 790) 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" was considered and agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1518), explaining the purposes of the measure.

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

House Concurrent Resolution 790 would provide for the printing for the use of the Special Subcommittee on Education of the House Committee on Education and Labor of 5,000 additional copies each of parts I and II of its hearings entitled "Discrimination Against Women" (sec. 805, H.R. 16098, 91st Cong., 2d sess.).

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing cost estimate

5,000 additional copies of pt. I, at $1,212.86 per thousand	6,064.30
5,000 additional copies of pt. II, at $1,292.28 per thousand	6,461.40
Total estimated cost, H. Con. Res. 790	12,525.70

PRINTING OF HOUSE DOCUMENT

The Senate proceeded to consider the concurrent resolution (H. Con. Res. 785) authorizing the printing as a House document the book entitled "Our American Government and How It Works: 1001 Questions and Answers" which had been reported from the Committee on Rules and Administration with amendments on page 1, line 11, after the word "printed", strike out "one million eighty-four thousand" and insert "nine hundred and eighty-one thousand"; and, on page 2, line 1, after the word "which", strike out "two hundred and six thousand" and insert "one hundred and three thousand".

The amendments were agreed to.

The concurrent resolution as amended was agreed to.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–1517), explaining the purposes of the measure.

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

House Concurrent Resolution 785 as referred would provide (1) that (with the permission of the copyright owner of the book, "Our American Government and How It Works: 1001 Questions and Answers," by Wright Patman, Member of Congress, published by Bantam Books, Inc.) there be printed as a House document, as soon as practicable, for maximum usefulness to Members of the 92d Congress, with emendations, the pamphlet entitled "Our American Government. What Is It? How Does It Function?" and (2) that there be printed 1,084,000 additional copies of such document, of which 206,000 copies would be for the use of the Senate (2,000 per Member) and 878,000 copies would be for the use of the House of Representatives (2,000 per Member). Copies of the document would be prorated to Members of the Senate and House of Representatives for a period of 60 days, after which the unused balances would be distributed by the respective Senate and House document rooms.

The amendment approved by the Senate Committee on Rules and Administration would reduce the Senate allotment of the publication from 206,000 to 103,000 (from 2,000 to 1,000 per Member). This action by the committee was motivated by the fact that certain Members of the Senate still have considerable quantities of the previous edition of the document available for distribution. The committee has also amended the title of the concurrent resolution to properly identify the compilation to be printed.

The printing-cost estimate, supplied by the Public Printer, is as follows:

Printing-cost estimate

To print as a document (1,500 copies)	$1,191.07
981,000 additional copies, at $72.39 per thousand	71,014.59
Total estimated cost, H. Con. Res. 785, as amended	72,205.66

CORRECTION IN THE ENROLLMENT OF H.R. 4605

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Concurrent Resolution 797.

The PRESIDING OFFICER (Mr. FANNIN). The Chair lays before the Senate House Concurrent Resolution 797, which will be stated.

The assistant legislative clerk read as follows:

H. CON. RES. 797

Resolved by the House of Representatives (the Senate concurring), That the Clerk of the House of Representatives, in the enrollment of 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, is authorized and directed to strike out "title 18" in section 6(2) and insert in lieu thereof "title 39".

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the concurrent resolution was considered and agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at an appropriate time there be a period for the transaction of routine morning business, with a time limitation of 3 minutes on statements made therein.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS BILL, 1971—CONFERENCE REPORT

Mr. ELLENDER. 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. 19590) making appropriations for the Department of Defense for the fiscal year ending June 30, 1971, and for other purposes.

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

The PRESIDING OFFICER (Mr. FANNIN). Is there objection to the present consideration of the report?

(For conference report, see House proceedings of today.)

Mr. ELLENDER. Mr. President, this conference report represents the efforts of the second committee of conference to resolve the differences between the two Houses with respect to the Department of Defense appropriation bill for fiscal year 1971. The first conference report was tabled on my motion earlier today, and the second committee of conference met in two sessions today to resolve the matters in the first conference report that were opposed by a number of Members of the Senate. I will comment on these points in detail during the course of my introductory remarks.

Earlier today, there was a full debate on the issues involved in the new language adopted in our second conference, and I will not take the time of the Senate to again discuss the issues involved.

The committee of conference agreed

on appropriations totaling $66,595,937,000, which is—

Under the budget estimates of $68,745,666,000 by $2,149,729,000;

Over the Senate bill of $66,417,077,000 by $178,860,000; and

Under the House bill of $66,806,561,000 by $210,624,000.

As this bill passed the Senate, it represented a reduction of $389,484,000 in the House-passed bill, and, as I have stated, the committee of conference agreed to increases in the Senate bill of only $178,860,000; so that the Senate conferees maintained considerably more than half of the Senate decrease.

The conference committees met on six separate occasions, and these meetings involved approximately 14 hours of deliberations. Just as the Senate conferees were determined to maintain the position of the Senate, so the House conferees were determined to maintain the position of the House, and the recommendations of the conference committee represent the honest efforts to compromise the differences in the two versions of the bill.

I want to call attention to the fact that the task of the Senate conferees was extremely difficult in view of the letter the Secretary of Defense sent to the conference committee. In this letter, the Secretary requested the conference committee to recommend appropriations totaling $67,209,100,000, which amount would have been $402.6 million over the House bill and $792 million over the Senate bill. I ask unanimous consent to have printed in the RECORD at this point a copy of the Secretary's letter, referred to as Exhibit A.

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

EXHIBIT A

THE SECRETARY OF DEFENSE,
Washington, D.C.

HON. RICHARD B. RUSSELL,
Chairman, Department of Defense Subcommittee, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: We have carefully considered the actions of the House and Senate on the 1971 Defense Appropriation Bill (H.R. 19590). The bill as it passed the House would provide $66,906.6 million, a reduction of $1,939.1 million from the request. The Senate Bill would provide $66,417.1 million, which is $389.5 million below the House Bill and $2,328.6 million below our original request. After reconsideration, and taking into account the latest information available to us, we find that we require a minimum of $67,209.1 million. This is $402.6 million above the House Bill, $792 million above the Senate Bill, and $1,536.6 million below our January request.

I cannot emphasize too strongly that the FY 1971 budget estimates we submitted in January were rock bottom, the lowest amounts consistent with our national security needs. Adjusted for pay and price increases, that budget was about 20% (over $17 billion) below FY 1968, the peak war year. In the same constant dollars, the FY 1971 budget was about $5 billion (7%) above the prewar FY 1964 level. Incremental war costs in FY 1971 are more than twice $5 billion; baseline forces have been cut sharply from the FY 1964 level. Defense spending comprised 34.6% of the FY 1971 Federal budget total—the lowest percentage since FY 1950. Defense spending as projected in the FY 1971 budget would be 7% of the gross national product—the lowest percentage since FY 1951. From the June 1968 peak, the budget projected a drop of 639,000 military personnel and 142,000 civilians by June 1970, a total drop of 781,000 direct personnel, removing most of the wartime buildup. Defense-related employment in industry will fall by over one million in the same period, so that the total manpower impact of Defense cutbacks is about two million jobs. Outlays for procurement, construction and RDT&E (war costs included) as projected in the budget for FY 1971 were below the prewar (FY 1964) level in constant dollars. The baseline force costs projected in the FY 1971 budget (that is, the total budget less the incremental cost of the war) are the lowest since before the Korea buildup. The same is true of baseline military manpower.

Our sharply-reduced budget request must also be considered in terms of the national security threats we face. The threat certainly has not lessened since 1964. As you know, the intervening years have been a great expansion in Soviet strategic nuclear capabilities, and a massive buildup in their naval forces. Soviet activities in the Middle East and elsewhere are a source of increasing concern. The invasion of Czechoslovakia has served to remind us of the reality of the threat on the Continent. The years since 1964 have also seen a steady growth in the nuclear power of the Chinese People's Republic. It is threats such as these, and the continuing needs of the war effort, which we have had to balance against the need for achieving a minimal budget in the long-run interests of the American economy. The same weighing of threats and resource requirements played a central role in the evolution of the Nixon Doctrine. Full support and implementation of this doctrine is vital to the maintenance of adequate national security with minimal Defense budgets; our 1971 requests represent a long step in this direction. We need your understanding and full support as we move through this transition. I especially ask that you consider the impact of 1971 budget actions upon the posture we must achieve for the 1970's. Two key elements are modernization and the maintenance of a strong R&D effort; both of these are very much involved in our appeal of some of the cuts made in the FY 1971 bill. The Nixon Doctrine will continue to require a high level of effort in these areas. Looking somewhat ahead, it must be recognized that there will be a growing need for aid to our allies, offsetting some of the budgetary savings from cutbacks in U.S. forces. In short, we were fully aware of the need to present the lowest possible Defense budget, consistent with our national security needs. Cuts as deep as those in the Bill as it stands cannot be accommodated within our minimal requirements for national security.

In the eleven months since the estimates were prepared, there have been many changes involving specific estimates and items, frequently involving a decrease in the amount necessary. The House and Senate took account of these items in appropriation actions, and, as noted, we have accepted many of the specific reductions. The changes, however, work both ways, and it must be understood that many changes have caused increases in the amounts necessary. For example, the change in plans with respect to Southeast Asia deployments which made it possible for us to accept sharp House cuts in Marine Corps appropriations also produced an increase in Army costs.

The House added $58.5 million in critically-needed funds for our Vietnamization program, $23.9 million to cover increased Air Force and Navy program needs, plus $150 million added on the Floor to meet a part of the mandatory operating increases that were not foreseen when the estimates were prepared. All of these items were deleted by the Senate, on the basis that they were not included in detail in the budget, and should be included in a supplemental request. Such a course of action is simply not practical. With the year half over, we do not even have our regular bill. We cannot be optimistic regarding action on a supplemental. Of greater significance is the fact that Congressional action on our estimates, which has extended nearly one year since their preparation, has involved making reductions for unforeseen decreases in every case where they were identified. Had our bill been enacted earlier the unforeseen decreases would have been available to meet the increases we now face. In short, we cannot operate the Defense budget on a ratchet basis, eliminating all decreases that materialize in 11 months and failing to recognize any increases. It is essential that the Senate Bill be increased to cover these mandatory increases which have materialized since the estimates were prepared.

Our major areas of concern are covered in the balance of this letter, with details enclosed.

MILITARY PERSONNEL

We accept reductions of $250.2 million in our original military personnel appropriation requests. We request restoration of $93.3 million to the House Bill for permanent-change-of-station travel, and of $4 million to the Senate Bill for the Air Guard and Reserve Programs.

In an action aimed at cutting costs and providing greater stability for military personnel, the House Bill reflects a reduction of $95.2 million for permanent-change-of-station travel. This was based upon a flat 10% cut in the FY 1971 budget estimate, reduced to 7.5% in recognition of the fact that the first three months of the year had passed. I want to emphasize that we are in complete agreement with the objectives of reducing permanent-change-of-station moves, and we have taken many actions in this regard. Incentives are offered to encourage personnel to extend tours of duty in Vietnam, thereby reducing the number of moves. The extended early release program eliminates the need for moves related to short-term assignments late in a member's period of service. Assignments to short term areas are now handled in such a way as to minimize the movement between training and overseas. CONUS vacancies are filled, insofar as practicable, with overseas returnees. The FY 1971 budget requests for PCS in the Army and Navy are about 14% below the FY 1970 level, in spite of price increases of about 5% (the new air transportation tax, and increased transportation and storage charges). Allowing for this, the FY 1971 program is about 20% below FY 1970 on a comparable basis; it is this lower level which the House proposes to cut.

The further sharp cuts proposed by the House are clearly impractical at this time. The House assumed that the reductions could take effect on October 1, 1970. Actually, the bulk of our moves were even then programmed well into calendar 1971. This of course is a necessity, in order to provide adequate notice to the members involved, in addition to operational reasons. At this late date, reductions could not take effect until the last few months of the fiscal year. The House, while apparently concerned with rotational travel, applied the cut to all moves—including accession and separation travel, hardship moves, and moves to short-tour areas such as Vietnam. Nearly half of the Army's FY 1971 estimate is for moves related to Southeast Asia. In practice, then, a cut would have to be applied to a relatively small share of the total moves in the last few months of the year, and would create extreme uncertainty and hardships. There is already a great deal of turbulence in military manpower programs due to the large strength cutbacks and major redeployments now underway. Such conditions produce a great deal of unpredictability, and

the need for more moves that would be necessary in a stable situation. In the face of this, as I have noted, we have already projected a drop of nearly 20% (in constant dollars) in Army and Navy moves for FY 1971. Under the circumstances, the further sharp cut reflected in the House Bill simply cannot be accommodated in this area. I must urge restoration of $93.3 million of this reduction, to provide the amounts approved by the Senate for the four appropriations involved.

The Senate made reductions of $2 million each in the personnel appropriations for the Air Force Reserve and the Air National Guard based on "historical overstatement of requirements." The enclosures make clear that the present requirements are not overstated and that the Senate amount would force a cutback in Reserve on-board strength and in Air Guard pilots. In light of the increasing importance of these Guard and Reserve forces to our overall readiness posture, such developments would be deplorable. These cuts, amounting to a total of $4 million, should be restored to the Senate Bill.

OPERATION AND MAINTENANCE

Our current request for operation and maintenance is $122.4 million below the estimates originally submitted to the Congress. This is the net of $300.4 million in specific reductions, reflected in both Bills and accepted by the Department, partially offset by $177.9 million for cost increases not foreseen when the budget estimates were submitted at the start of the year.

Restoration to the Senate Bill. We request an increase of $177.9 million to the Senate Bill, to provide:

$150 million ($50 million each for the Army, Navy and Air Force), which was added on the House Floor to cover part of the very large mandatory increases that have occurred in on-going programs.

$23.9 million to cover the costs of 5 Air Force Reserve squadrons equipped with C–130 aircraft.

$4 million for Deep Freeze.

$35 thousand for the promotion of rifle practice.

It must be emphasized that the $150 million added on the House Floor is not required for "new programs," but to cover a part of the mandatory cost increases in on-going programs. These increased costs cover such items as (1) transportation rate increases (+$66.4 million), (2) activity and deployment changes related to South Vietnam (+$73.5 million), (3) slippage in REDCOSTE implementation (+$39.3 million), (4) increased operations and readiness of the Sixth and Seventh Fleets (+51.4 million), (5) increased civilian personnel costs due to average salary increases (+$78.6 million), (6) other rate and cost changes (+11.4 million); for a total mandatory cost increase in Operation and Maintenance accounts of $320.6 million. These costs must be absorbed within available funds, making restoration of the $150.0 million ($50 million each for Army, Navy and Air Force) to the Senate Bill an absolute necessity.

In the development of the President's Budget, plans were included to retire 5 C–119 Air Force Reserve Squadrons. It has been subsequently determined that these Reserve Squadrons are required and should be retained and equipped with C–130 aircraft. The C–130 aircraft are now available for equipping these units, but $23.9 million is required under "Operation and Maintenance, Air Force" to cover operating costs during FY 1971. I urge restoration of $23.9 million to the Senate Bill to meet this important requirement.

The President's FY 1971 budget request contained $4.4 million in O&M, Navy for logistic support of the DEEP FREEZE scientific effort. This request was about $4 million less than prior years and in line with the House Committee's guidance in FY 1970 that the Navy commence phasing out its funding support of this effort. The effect of this reduction would have been to cancel 80% of the scientific effort in FY 1971. Subsequently, the Antarctic Policy Group recommended:

(a) That the program be maintained at the current annual level.

(b) That the National Science Foundation, commencing in FY 1972, budget for both the scientific and supporting efforts, with the support being provided on a mutually acceptable reimbursable or non-reimbursable basis.

(c) That other aspects of program management and safety of operations remain as heretofore set forth in Office of Management and Budget Circular A–51 of August 3, 1960.

The National Security Council endorsed this course of action and the Chairman of the Senate and House Appropriations Committees were informed on July 10, 1970 by the Assistant Secretary of the Navy for Financial Management. The House Bill includes the extra $4 million required, and I urge addition of this amount to the Senate Bill.

As detailed in the enclosures, the Director of Civilian Marksmanship has been unable to accomplish assigned missions under present funding levels, and the additional $35 thousand provided in the House Bill would meet the highest priority requirements. I ask that $35 thousand be restored to the Senate for this program.

Restoration to the House Bill. We ask that $26 million be restored to the House Bill involving specific cuts which were restored by the Senate. This includes:

$9.7 million for the Army—$8 million to restore part of the cut for automatic data processing, where the House cut presupposed a higher level of rental savings than has actually materialized, and $1,676,000 for civilian manpower, to avoid duplicating the very sharp cuts otherwise being made.

$7.5 million for the Navy—$7 million to provide for continuing with the 15% directed cut in headquarters staffs, but avoiding duplicate budget cutting actions, and $500,000 for implementation of the joint uniform military pay system, a much-needed reform.

$2.8 million for the Marine Corps to avoid duplication in civilian personnel and headquarters cuts, similar to the situation outlined for the Navy.

$6 million for the Air National Guard. The decrease in flying hours mentioned in the House Report was recognized in the budget estimates, but higher fuel costs nonetheless resulted from a change in force mix. In addition to this, there have been sharp further increases in operating costs. Unless the House cut is restored, it will be necessary to make a sharp cut in flying hours, thereby degrading combat readiness.

Logistics Management Institute (LMI). The House Report stated that "the Committee is of the firm opinion that the use of the Logistics Management Institute should be cut back immediately and the contract eventually terminated." (Page 46, House Report 91–1570). The Senate Report makes no reference to LMI. Studies and recommendations made by the LMI have resulted in very substantial savings that are fully documented. The studies have also significantly improved the effectiveness and efficiency of Defense logistics operations. At a time when resources available for our Defense requirements are being so drastically reduced, it is more important than ever that increased emphasis be given to the identification of opportunities for improvement in the management of the logistic resources that remain available. It is requested that the Conferees specifically address this matter, approving continuation of the LMI effort at an effective level.

Senior Advisers in Vietnam. Outstanding Army personnel are selected to serve as senior advisers to province and district officials in Vietnam. These personnel play a vital role in the Vietnamization effort, and every effort is made to persuade them to volunteer for 18-month tours, despite the personal risks involved in such duty in forward areas. A family leave plan is offered as an incentive to such personnel. The House and Senate Bill would provide for this program in different ways. The appropriation language in the House Bill provides a limitation of $4 million for emergencies and extraordinary expenses, within which $366,000 for the senior adviser program could be accommodated. The Senate Bill provides a limitation of $3,634,000 for emergencies and extraordinary expenses, $366,000 less than the House Bill, but would cover this program in a new clause added to general provision 807. Either version is acceptable to the Department, since either would provide for the continuation of this essential activity. If the Senate version is adopted, we will, in consonance with the Senate Report, submit a legislative proposal early in the next Session of the Congress.

PROCUREMENT

We request appropriations of $16,419.3 million for procurement. This is $175.5 million above the House Bill, $449.2 million above the Senate Bill, and a net of $939.3 million below our request as submitted in January. This is the net of $1,356.8 million in reductions which we accept, offset in part by $417.5 million added by the House for shipbuilding.

Army procurement. We request $2,931.7 million, which is $1.4 million below the House Bill and $1.7 million above the Senate Bill.

We ask that the House Bill be increased by $147.2 million to restore specific reductions, and decreased by $148.6 million to reflect other reductions made by the Senate, for a net reduction of $1.4 million. The increases include:

$34.9 million for the LANCE missile (including spares and modifications), apparently deleted by the House on the basis of a misunderstanding of the technical status of this program. We request full restoration, for reasons set forth in a classified enclosure.

$20 million for the Land Combat Support System (including spares) needed to provide adequate support for the SHERIDAN/SHILLELAGH and TOW missile systems. This is the only equipment now available for maintenance support of these systems. The House action, if sustained, would lead to a costly break in production.

$28.8 million for the XM 705 1¼ ton truck. The House action was based on the observation that the XM 705 may be "excessively overengineered and gold plated," and that the upcoming evaluation of the XM 715 may prove the latter vehicle to be superior. The XM 705 is guaranteed and warranted to meet the Army requirement. The FY 1971 funds are required to fund the second year of the XM 705 multi-year contract, or to pay termination charges and initiate procurement of the modified 715 should evaluation results warrant such a decision. Failure to provide these funds would cause delays, higher costs, and serious breaks in support for Army and other users of these vehicles.

$9.2 million for the M557A1 Command Post Carrier to avoid a degradation of military readiness and to avoid high termination costs and other disadvantages if a highly successful contract, now in its third year, is placed in jeopardy.

$38.2 million for the improved HAWK missile. Failure to provide these funds would result in a six month break in production, and add significantly to program costs. Technical problems are receiving concentrated attention. There is an urgent operational requirement for the improved HAWK to replace the basic HAWK system, which was designed in the mid-1950's and has been fielded for over 10 years.

$16.1 million for 4 other systems, including $5.8 million for NIKE HERCULES modifications; $1.1 million for repair parts and support vehicles; $4 million for field artillery radar (RATAC); and $5.2 million for landing craft. Details are enclosed.

We ask that $1.7 million be added to the Senate Bill for Land Combat Support System modifications. This will provide for improvements that are essential to the performance and reliability of the system.

"Procurement of Aircraft and Missiles, Navy." We request restoration of $122.1 million to the House Bill, to provide the $3,127.9 million reflected in the Senate Bill. This includes program increases of $222.1 million above the House Bill, offset by a $100 million transfer from the stock fund reflected in the Senate Bill. The program increases include:

$40 million for the A–6E aircraft deleted by the House, on the basis that the system is subject to extensive further test and evaluation ("fly before buy"). Actually, there are only three basic subsystem changes to the A–6A: radar, computer and armament control unit. The first two have been proven in other aircraft, and the armament control unit is a low-risk item. Reduction of A–6E procurement to 6, as in the House Bill, will cause sharp increases in unit costs and other extra costs because of actions already taken under the Continuing Resolution. This $40 million reduction should be restored.

$92.3 million for the E–2C aircraft. These aircraft, in addition to the E–2Bs mentioned in the House Report, are needed to meet existing force level deficiencies for airborne early warning aircraft. Beyond this, and contrary to the statement in the House Report, the E–2C cutback would cause plant loading problems and result in higher costs.

$43.3 million House reduction for Avionics shop test equipment for the S–3A, F–14A and E–2C aircraft. If these funds are not restored it will be necessary to stop production on this equipment, with re-start costs estimated at $13 million for FY 1972. It will be necessary to invest in interim test equipment for FY 1971 at a cost of $27 million. Since the type of equipment is specified in the aircraft contracts, this House cut could result in delay claims. All three aircraft would be delayed. Unless these funds are restored, the FY 1972 requirement would be $92.1 million, with additional FY 1971 requirements of $27 million—not including claims. The Deputy Secretary of Defense is personally monitoring this program, to assure that only essential test equipment is purchased. I urge restoration of this $43.4 million.

$32.2 million for the AV–8A Harrier, added by the Senate to permit the maximum amount of production effort in the United States.

$14.2 million for aircraft spares, associated with the restoration of funds for the A–6E and E–2C.

"Shipbuilding and Conversion, Navy." As Secretary of Defense, I have consistently emphasized the priority requirements for fleet modernization and have stated that the shipbuilding increase of $435.0 million included in the Authorization Bill represents the highest priority requirements after those included in the President's Budget request. The House Appropriation Bill provided $417.5 million for the ships authorized as follows:

	Millions
One additional nuclear attack submarine (SSN)	$166.0
Advance procurement for 1 additional nuclear attack submarine (SSN) for FY 1972	22.5
One submarine tender (AS)	102.0
One destroyer tender (AD)	103.0
Service craft	24.0
Total	417.5

All of these ships are required and will substantially add to fleet capability. The increase in the USSR fleet threat and modernization of the Soviet Navy makes this a necessary investment. Of particular concern is the Soviet submarine force—both in numbers and modern submarines. This makes the restoration of the Nuclear Attack Submarine (SSN) for FY 1971 ($166.0 million) and Long Lead-time components for an additional SSN in FY 1972 ($22.5 million) of special urgency.

With respect to the SSN, advance procurement to support the additional submarine was budgeted in FY 1970 and is under procurement. The current contract proposals for the FY 1971 buy of SSN's contain the option to add the additional SSN, so immediate action can be taken to initiate construction of the boat.

The Department of Defense urges conference approval of the House allowance, and addition of $417.5 million to the Senate Bill.

"Other Procurement, Navy." We request an appropriation of $1,487.3 million as provided by the Senate, an increase of $43.9 million above the House Bill. This increase is the net of $55.8 million in cuts restored by the Senate, less $11.9 million in additional Senate cuts which we accept. The $55.8 million in increases include:

$30 million for the MK–48 torpedo. These funds are essential to make it possible for the Navy to request quotes on sizable quantities of these critically-needed torpedoes, securing active competition and the best possible unit costs in the follow-on production. For reasons detailed in the enclosures this would be impossible under the House amount.

$14.5 million for the MK–46 torpedo. Most of this amount has already been obligated under the continuing resolution, and there is in addition a critical need to proceed with proof and test prior to delivery to the fleet. It is essential that this cut be restored.

$4.9 million for ship alterations (Short Stop), for reasons detailed in a classified enclosure.

$4 million for the CBU–55/B cluster bomb, for which the technical problems cited in the House Report have recently been resolved.

$2.4 million for AN/SPS–40 radar improvements, to provide needed improvements in detection capability and reliability. These funds have already been obligated, and costly termination charges would be involved if they are not provided.

"Procurement, Marine Corps." We request an appropriation of $175.9 million as reflected in the Senate Bill, an increase of $4.2 million above the House Bill to provide the required amount for the XM 705 1¼ ton truck. As detailed in the enclosure, this restoration is necessary to avoid the loss of readiness and higher costs that would be associated with continued operation of obsolete equipment.

"Aircraft Procurement, Air Force." We request an appropriation of $3,231.3 million, which is $28.3 million above the House Bill and $30 million above the Senate Bill. The requested addition to the House Bill is the net of $38.9 million in increases, less $10.6 million in additional Senate reductions, which we accept. The increases from the House Bill include:

$27.7 million for B–52 and FB–111 modifications (SRAM). This missile is urgently needed, and the test program is continuing to provide encouraging results, as detailed in a classified enclosure. Denial of these funds would severely disrupt this program, as described below for "Missile Procurement, Air Force."

$11.2 million for F–111 aircraft spares. In this case, it appears that the House Committee reduced the initial spares request by $11.8 million, proportional to the drop in the quantity of aircraft. As detailed in the enclosure, spares funds are requested on the basis of the amounts necessary to be committed in FY 1971; the reduction in aircraft quantities reduces the FY 1971 spares requirement by $600,000. The $11.2 million restored by the Senate should therefore be added to the House Bill.

We request an addition of $30 million to the Senate amount to provide for the International fighter aircraft, which is being procured in accord with the Nixon Doctrine to provide our allies (particularly in Asia) with a self-defense capability, allowing us to reduce U.S. forces abroad. The required statement of our decision to proceed with this aircraft was in preparation at the time of the Senate Committee's action on the FY 1971 appropriations and has now been provided to you. Unless the required funds are provided, the planned program will have to be stretched out, resulting in disruption and some additional costs. I request that this $30 million be restored to the Senate Bill.

"Missile procurement, Air Force." We request appropriation of $1,380.4 million as reflected in the Senate Bill, an increase of $8.1 million above the House Bill. This is the net of $58.1 million in increases, less a $50 million transfer from the stock fund reflected in the Senate Bill. The increases include $3.2 million for Minuteman operational base launch and $54.9 million for the AGM–69A (SRAM) and related spares. This missile is urgently needed, and the test program is continuing to provide encouraging results, as detailed in a classified enclosure. Moreover after consultation with the House Appropriations Committee, the Air Force entered into a contract late in FY 1970 (with FY 1970 funds), to secure maximum continuity between the R&D and production effort. Under the House Bill these advantages would be lost, and it would be necessary to completely redesign the SRAM production program and renegotiate the FY 1971 production contract. The operational base launch is considered essential by the President. This item is explained in a classified enclosure.

"Other procurement, Air Force." We request appropriation of $1,345.1 million, the Senate amount, which is $36.1 million less than the House Bill. The Senate made reductions of $42.5 million below the House Bill, all of which we accept, but restored $6.4 million for operational base launch. We ask that the Conferees recognize this requirement.

"Procurement, Defense Agencies." We request an appropriation of $45,310,000 as in the Senate Bill, which is $6.4 million more than the House Bill. The additional $6.4 million is to provide for purchase (instead of leasing) of two computers used for the World Wide Military Command and Control System (WWMCCS). The WWMCCS ADPE update program represents an important step in control and economic use of ADPE in command and control and intelligence. The review cited by the House Committee has been completed, a Development Concept Paper has been approved, a request for proposal (RFP) has been issued, and a cost threshold of $46.2 million for 15 new machines has been established. In addition, we have decided to establish some third generation IBM equipment as a second standard and to retain 17 to 22 of these machines. This retention will reduce software conversion costs by $25 to $50 million. The program cost of $1½–1 billion or more cited in the Appropriation Committee report is incorrect; current estimates are provided in the enclosure.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

We request RDT&E appropriations of $7,062.5 million. This is $107.8 million above the House Bill, $102.4 million above the Senate Bill, and $283.1 million below our original request. Allowing for the fact that the Bill now includes $58 million under

RDT&E for the S–3A which we had requested under procurement, our current request is $341.1 million below the estimate submitted in January.

I must request these RDT&E fund restorations as a matter of the highest priority. I am aware of the deep Congressional concern regarding certain aspects of our RDT&E programs, and of the reasons for such concern. I had similar concerns when I became Secretary of Defense, and I personally conducted an intensive review of all significant development programs and took steps to tighten our management in this area. This has had significant results. Consider, for example, that the budget request for FY 1970 was $8,222.4 million. Our requests for FY 1971 was $876.8 million below that figure. Allowing for one year's intervening inflation, the drop in the budget request is well over $1 billion. Our FY 1971 request for budget authority ($7,345.6 million) was $23.2 million below the amount actually provided in FY 1970. The amount which we are now requesting for FY 1971 is $306 million below the amount actually provided for FY 1970. Once again, if we allow for inflation, the cut in real terms is more than half a billion dollars from 1970 to 1971.

Our current request of $7,062.5 million (and this includes the funds shifted from procurement for the S–3A) is about the same as the RDT&E programs of prewar years. RDT&E budget authority was $6,993 million in FY 1963, and $6,984 million in FY 1964. Pay and price increases since 1964 amount to about $1.7 billion, so that the prewar program would cost about $8.7 billion in FY 1971. We will be proceeding in FY 1971, and covering war costs, within a program level that has been cut more than 20% below prewar.

These figures take on far more meaning when we look at the comparable Soviet effort. We now have a reasonably good assessment of the magnitude of the Soviet effort compared to ours; the comparison is based on the numbers and characteristics of major weapons systems available to each side for production. The assessment shows that the annual Soviet military RDT&E effort now is more than $10 billion, expressed in terms of equivalent U.S. effort. We don't know whether the Soviets will continue the steady expansion of their effort at a rate of 10–13% per year. In any case, we have good reason to believe that the Soviet RDT&E effort in FY 1971 will be about 20–50% more than the U.S. effort now authorized.

This difference is extremely serious. It means that, if continued, the USSR will develop major weapons systems which we will not. It means that our technological lead—essential to overcoming their security barriers and to compensating in part for their numerical superiority—will vanish in a few years. It means that we will then not be able to understand much of our intelligence data on Soviet developments nor know how best to counter Soviet technological surprises. In contrast to the steady Soviet increase in the training and use of engineers and scientists in defense RDT&E, our assets of trained researchers are declining, as you are well aware from the employment statistics.

The budget cuts also result in a sharp reduction in R&D flexibility. A large portion of the requested budget is devoted to approved ongoing programs. To cut these would result in inefficient scheduling, greater expense and lost time. Thus, the cuts have to be taken from the new programs, the new ideas, and the feasibility demonstrations needed to reduce the possibility of technological surprise. The effect of the overall 6% cut thus translates into a very drastic cut in efforts associated with new ideas and new programs. The Soviets, with their greater effort, will have few such constraints.

I mentioned earlier that I undertook a thorough review of our RDT&E efforts soon after I assumed this office. One result, already noted, was a significant cutback in RDT&E programs in selected areas, leading to a sharp drop in our budget request. Another result of that review was a significant strengthening of my own conviction that our R&D program represents our most vital long-range defense investment and must continue to be supported with significant resources.

The cuts in RDT&E represent a calculated risk—one comparable to the risks taken elsewhere in this minimal budget. Our present technological superiority gives us a short period of time in which we might afford a reduced U.S. effort while assessing the Soviet RDT&E progress and intent. But the stakes in this kind of decision-making are enormous. The consequences of Soviet achievement of technological superiority cannot be overstated.

The background just presented is of very great importance to understanding our serious concern with the deep RDT&E program reductions reflected in the House and Senate Bill, and why we feel that partial restoration is essential to meeting our minimal national security needs.

We request restoration of $107.8 million to the House Bill, to provide for items approved by the Senate. These include:

$3.8 million for the Pershing missile system, needed to complete the planned R&D effort in support of the change in the primary mission of the Pershing.

$2 million for the Army to develop a standardized family of electric power sources for use by all services.

$7 million for the destroyer helicopter system (LAMPS), needed to move the program into the contract definition phase and to avoid the cost increases inherent in program stretchout.

$10 million for the Subsonic Cruise Armed Decoy (SCAD) to continue development of this important penetration device.

$23.5 million for the Airborne Warning and Control System (AWACS), to avoid the need for contract renegotiation (for which the estimated additional cost would be $40 million, permitting orderly progress on this badly-needed system.

$53.8 million for the Minutemen program, including $34 million for rebasing and $19.8 million for operational base launch.

$6.7 million for several highly-important classified programs of the Defense Atomic Support Agency.

We request that $102.4 million be added to the Senate Bill, to provide for critically-needed programs approved by the House. Senate made a large number of specific reductions, as follows:

Army, 29 items, $18.8 million.
Navy, 43 items, $32.7 million.
Air Force, 38 items, $43.6 million.
Defense Agencies, 1 item, $1.5 million.

It is correct that the requirements for some of these items have declined. On the other hand, requirements for other items (those specified by the Senate for reduction, plus additional items) have increased since the budget estimates were prepared. Accordingly, I urge that $102.4 million be added to the Senate Bill, to provide the level of funding in these areas as approved by the House.

COMBAT READINESS, SOUTH VIETNAMESE FORCES

The President's Budget included a request for a separate appropriation of $300 million to be used to increase the readiness of South Vietnamese forces in accordance with the President's plan for Vietnamization of the war. The funds to be used for this purpose represent one of the highest priority program requirements in the budget.

In order to provide the Congress with complete information concerning proposed use of funds requested, on May 16, 1970 the Armed Services and Appropriations Committees were provided full details, by appropriation and line item, of requirements for $349.4 million for the purposes of the appropriation. These requirements had been validated by the Service Secretaries and Joint Chiefs of Staff. Subsequently, on September 9, 1970, the Committees were furnished a statement of revalidated requirements totaling $358.5 million.

Based upon the data provided, the House Bill included $358.5 million for this appropriation. The Senate reduced the amount to $300.0 million.

The requirement for $358.5 million is valid and needed to meet urgent requirements for support of South Vietnamese forces. Delay in implementation of the full program pending Congressional action on a supplemental would jeopardize the support of these forces and adversely affect progress toward Vietnamization. I urge approval of the House amount.

SOUTHEAST ASIA

The Senate Bill would amend Section 843 by adding the words "or Cambodia." This language would add Cambodia to otherwise identical prohibitory language in the DoD Appropriation Act for 1970 (Section 643 of PL 91–171). The language of the 1970 Act was incorporated into the President's budget for FY 1971 (proposed Section 638). The basic question, therefore, is the prohibition this amendment would place on the introduction of American ground combat troops into Cambodia.

The President in his June 30th report on Cambodia gave a number of guidelines for U.S. policy in Cambodia. Among these were the following which relate to U.S. personnel:

There will be no U.S. ground personnel in Cambodia except for the regular staff of our Embassy in Phnom Penh.

There will be no U.S. advisers with Cambodia units.

We will conduct—with the approval of the Cambodian Government—air interdiction missions against the enemy efforts to move supplies and personnel through Cambodia toward South Vietnam. We do this to protect our forces in South Vietnam.

The President further commented as follows on this aspect of U.S. policy the following evening in his live television interview, "A Conversation with the President:"

Question: Do you feel that you can give categorical assurances now that we will not send ground troops back into Cambodia no matter what?

Answer: I indicated when this operation was begun two months ago . . . that once we had completed our task successfully of cleaning out the sanctuaries that then it would not be necessary and I would not consider it advisable to send American ground forces back into Cambodia.

I can say now that we have no plans to send American ground forces into Cambodia. We have no plans to send our advisers into Cambodia. We have plans only to maintain the rather limited diplomatic establishment that we have in Phnom Penh and I see nothing that will change that at this time.

Question: You can't foreswear in a final way . . . that is what the Senate seems to want.

Answer: I think that anybody hearing the answer that I have just given would certainly get the impression and would incidentally be justified in having the impression that the President of the United States has no intention to send ground forces back into Cambodia, and I do not believe that there will be any necessity to do so.

When you say, can I be pinned down to say that under no circumstances would the United States ever do anything, I would not say that, but I will say that our plans do not countenance it, we do not plan on it, and under the circumstances, I believe that the success of the operation which we have undertaken, as well as what the South Vietnamese will be able to do, will make it unnecessary.

Thus, while the President has indicated his *intention* not to introduce American ground combat troops into Cambodia, this amendment goes a step further, a step which the President refused to go, and purports to impose a categorical prohibition regardless of the circumstances. The President has indicated that he will meet his responsibility as Commander-in-Chief of our Armed Forces to take the action he considers necessary to defend the security of our American men. This amendment attempts to interfere with the President, ability to meet this responsibility. It should not be enacted.

PERIOD OF AVAILABILITY OF PROCUREMENT AND RDT&E APPROPRIATIONS

The House Bill would convert the no-year appropriations for shipbuilding, other procurement, and RDT&E to multiple-year appropriations, available for five, three and two years, respectively. Multiple-year appropriations would be very complex and costly to administer. Specifically:

Regulations, manuals, and computer programs would have to be changed at all levels throughout the U.S. and overseas areas on a retroactive basis.

Personnel throughout the world would have to be trained in these new procedures—an immense job on a retroactive basis.

Beginning about the middle of this fiscal year, it would be necessary—retroactively—to change hundreds of thousands, if not millions, of transactions already processed.

The 14 accounts on the books of the Treasury would grow to 28 by next July (if not immediately), and ultimately to 82.

Treatment of reimbursable transactions, change orders, prior-year adjustments, and many other areas would have to be specified.

Reprogramming understandings would have to be thoroughly revised.

We would be trying to change the system while it was running, and at the same time making sharp reductions in administrative personnel.

The enactment of multiple-year appropriations would present us with some immediate budgetary problems, including the following:

Our FY 1972 request would have to be $500 million to $1 billion above that required under present ground rules, unless we propose reappropriations or similar action.

Unless we propose reappropriation, we would go to Congress asking for full financing of new programs, while holding $500 million to $1 billion in old balances we did not intend to use. This would defeat the purpose of the House Bill.

On the other hand, if we proposed reappropriation—or if any of the four Committees did so—we would in effect have returned to the no-year appropriations of today, but adding the administrative burden and greatly confusing the authorization-appropriation.

For FY 1971, unless the new appropriations are merged with prior balances, we will have sustained an additional $1 billion cut, because our unprogrammed balances could not be applied to finance the FY 1971 program as contemplated in the budget and in the action otherwise taken by the House.

The Senate bill would:

1. Require, beginning June 30, 1971, the withdrawal of overage unobligated balances from the control of the Department of Defense and direct their return to the Treasury, while otherwise retaining the no-year character of the appropriations involved, and

2. Require the Comptroller General to examine the internal accounting system of the Department of Defense for determining the amounts to be withdrawn and make a report to the Congress as to the adequacy of the system.

We strongly favor the Senate Bill, and urge its adoption.

Conversion to multiple-year appropriations involves issues that are far too complex, with consequences that are far too great, to be resolved in the rush of completing action on our FY 1971 Bill. The Senate Bill meets the objectives expressed by both Committees. It would provide a clear and final cutoff point, without the serious problems involved in converting to multiple-year appropriations. It would take effect immediately, and older balances would be written off as of the end of next June. Consequently, I urge that the Senate Bill be adopted. If there continue to be reservations regarding this matter, we would be happy to make a full presentation to both Committees, early in the next Session. At that time, we could explain in detail our plans for operation under the provisions of the FY 1971 appropriation, the problems inherent in multiple-year appropriations, and suggest changes or refinements. Following that, I would hope that we would have a reasonable amount of notice to effect any changes which the Congress might direct.

BUDGET FLEXIBILITY

Section 836 of the Senate Bill merges the various transfer authorities heretofore provided, and provides a single limit of $700 million upon transfers, as compared to $600 million provided under three separate provisions in the House Bill. The Senate Bill requires approval of the Office of Management and Budget and prompt notification of the Congress of all transfers made pursuant to this authority; the Senate Report specifies that this new section shall be a matter of "special interest" under the established reprogramming procedures, and therefore will require prior approval by the Committees.

The added measure of flexibility provided by the Senate Bill is essential to the effective management of Defense programs. During the past two years the Defense budget has been significantly reduced, to the point that the Department's flexibility to meet unforeseen requirements has been severely limited. The full effect of such reductions is much greater than the individual program changes required by authorization and appropriation action. This makes it essential that additional flexibility be provided to the Department of Defense to transfer funds between appropriations to meet emergencies and the most urgent needs of national defense within the appropriations provided by the Congress. The unpredictability inherent in the current world situation makes it essential that the Department of Defense be able to react to changes necessary to provide for the strongest possible Defense posture within resources approved by the President and the Congress. Sharp Congressional reductions in our FY 1971 requests have reduced our flexibility. Some of this flexibility can and should be restored by the increased transfer authority provided in the Senate Bill. I strongly request enactment of this provision.

RELATIONSHIP OF RESEARCH TO MILITARY OPERATIONS

Section 845 of the Senate Bill would provide that funds may not be used for research projects unless they have a direct and apparent relationship to a specific military function or operation. This matter has already been considered by the Congress this year, and the language now appearing in the Senate Bill was rejected in favor of Section 204 of the FY 1971 Defense Authorization Act (PL 91-441) which provides that funds may be used only for projects which, in the opinion of the Secretary of Defense, have a potential relationship to a military function or operation. I believe that the Authorization Act should be allowed to stand. It is not sound policy to raise again an issue that was resolved by legislation enacted less than two months ago. Our objections to the language of the Senate Bill have not changed. This language could be interpreted to require the Department to discontinue support for basic research, at the very moment when our technical leadership is being challenged strongly, when we must act to ensure that our R&D program is revitalized through a greater emphasis on genuinely exploratory work. If the Department were to move out of relatively basic and applied research the country would no longer be able to depend as effectively upon many of the best scientists in the country for work on defense problems. I urge deletion of this provision from the Senate Bill.

PUBLIC AFFAIRS

Both the House and Senate Reports would impose limitations upon the amounts for public affairs activities. The Senate version is preferable. The Senate Report more explicitly defines the applicability of the limitation to cases ". . . where such functions constitute the primary mission of an organization element . . ." The Dollar amount specified in the Senate Report covers the amounts required for Defense Agencies and the Joint Chiefs of Staff. Also, the Senate Report specifically excludes security review activities from the scope of the limitation. For these reasons, I ask that the Conferees, in addressing this matter, endorse the Senate Report.

INTELLIGENCE AND SECURITY PERSONNEL

Section 846 of the Senate Bill provides a limitation of 138,000 upon the number of military and civilian personnel assigned to the Intelligence and Security Program after June 15, 1971. We do not object to a ceiling of 138,000, and I assure you that we will comply. We do object, however, to making this a provision of law. A future emergency could require a greater number of personnel, at which point it would be necessary to seek a change in the law. This might not be possible on a timely basis. With the understanding that we will comply with this limitation, I request that this provision be deleted.

In closing I wish to express our appreciation for your thorough consideration of our national security needs, and for the opportunities you have afforded us to present our views each step of the way. We have certainly benefited from this interchange. I again wish to stress that we have reached the positions outlined above only after a careful review of the facts in each case including a full consideration of the actions of the House and Senate and the reasons for such actions in the Report of each Committee. We have found it possible to accept a large part of the financial adjustments in either version of the bill, but we urge your favorable consideration of the matters at issue that are covered in this letter.

An identical letter is being sent to the Chairman of the Department of Defense Subcommittee of the House Committee on Appropriations. Please do not hesitate to call upon us if we can be of assistance.

Sincerely,

——— ———.

Mr. ELLENDER. The recommendations of the committee of conference are explained in the statement of the managers on the part of the House included in the conference report. However, I will take a few minutes to comment on several matters that I feel are of special interest to some Members.

During the discussions of the bill on the Senate floor, I made it clear that the recommendations of the committee did not include any funds for programs and activities that were not in the budget, even though the bill as it passed the House included $653,935,000 for nonbudgeted items and the Secretary of Defense requested the committee to recommend an additional $354,599,000 for

nonbudgeted items. The Senate conferees were not successful in our efforts to maintain the Senate position with respect to these nonbudgeted items, and the recommendations of the committee of conference includes funds for the following nonbudgeted items:

Operation and maintenance, Army. The House bill included $50,000,000 for "unforeseen operational costs," which amount was disallowed by the Senate. The committee of conference included $40,000,000 for this purpose.

Operation and maintenance, Navy. The House bill included $50,000,000 for "unforeseen operational costs," and an increase of $4,000,000 for Operation Deepfreeze—Antarctica program—both of which were disallowed by the Senate. The conference agreement includes $40,000,000 for "unforeseen operational costs," and the $4,000,000 for Operation Deepfreeze.

Operation and maintenance, Air Force. The House bill included $50,000,000 for "unforeseen operational costs," and $23,900,000 for the cost of retaining five Air Force Reserve units that were scheduled to be deactivated. The Senate disallowed both of these increases. The conference agreement includes $40,000,000 for "unforeseen operational costs," and the $23,900,000 for the five Air Force Reserve units.

Mr. President, I want to call attention to the fact that, even though we have increased these three "Operation and Maintenance" appropriations, the amounts recommended by the conference committee are still below the budget estimates by the following amounts:

Army, $63,313,000,

Navy, $13,512,000—net, and

Air Force, $19,364,000.

I may say, Mr. President, that these $50 million amendments I referred to were made on the floor of the House. In agreeing to these increases, the Senate conferees not only considered the fact that we were within the budget estimates for each of these large appropriations but also that most of these operation and maintenance costs are determined by the number of men in the service concerned and the level of operations in various areas. I ask unanimous consent to have printed in the RECORD a fact sheet—referred to as exhibit B—prepared at my request by the Department of Defense, giving details on each of these increases I have mentioned.

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

EXHIBIT B

HOUSE-SENATE CONFERENCE FACT SHEET: OPERATION AND MAINTENANCE

A. UNFORESEEN COSTS (HOUSE FLOOR INCREASE)

In floor action, the House added $150 million of Operation and Maintenance funds for unforeseen costs which have been identified since the submission of the President's Budget. The Senate deleted these funds because they were add-on's to the original budget.

In fact, the funds are required to cover mandatory cost increases in on-going areas and are not to be used for "new" programs. These increased costs cover such items as (1) transportation rate increases (+$66.4 million), (2) activity and deployment changes related to South Vietnam (+$73.5 million), (3) slippage in REDCOSTE implementation (+$39.3 million), (4) increased operations and readiness of SIXTH and SEVENTH Fleets (+$51.4 million), (5) increased civilian personnel costs due to average salary increases (+$78.6 million), and (6) other rate and cost changes (+$44.3 million); for a total mandatory cost increase in Operation and Maintenance accounts of $353.5 million. These costs must be absorbed within available funds, making restoration of the $150.0 million ($50 million each for Army, Navy, and Air Force) an absolute necessity.

The only alternative available to the Defense Department if such funds are not restored is further personnel reductions to free funds to cover these mandatory costs. Planning for a supplemental is not a feasible course of action since immediate action is necessary to live within funds appropriated. A delay of 60–90 days would make the necessary adjustments impossible, if a supplemental were not forthcoming or were ultimately approved in a lesser amount.

The specific areas requiring additional funds are:

Army

Transportation rate increases, $32.6 million.

Military Airlift Command—Cargo and Mail (effective May 1970), 10 percent.

Command Airlift—Cargo and Mail (effective July 1970), 5 percent.

Military Sealift Command (effective Jan., Mar., July and Sept. 1970): Cargo, 8.5 percent. Bulk POL, 15.4 percent.

Military Traffic Management and Terminal Service—CONUS Port Handling (effective July 1970), 4 percent.

Change in RVN Deployments, $40.8 million.

The FY 1971 President's Budget was developed on assumed manpower level in South Vietnam. Since December 1969, when the budget was developed, there have been significant changes to the budget plan. These changes are due primarily to decisions which have been publicly announced regarding the mix of forces between Army and Marines which are to be withdrawn from Vietnam. Army forces are remaining longer and the Marine forces are being withdrawn at an accelerated rate. The cost of maintaining these Army forces in Vietnam, representing approximately 15,000 military manyears above the President's Budget level, is $40.8 million for the Operation and Maintenance, Army appropriation. These costs are above what has been included in the Army's FY 1971 President's Budget.

Slippage in implementation of plan to transfer responsibility for operation of European missile battalions (REDCOSTE), +$39.3 million.

Increased Civilian Personnel cost due to changes in the composition of the work force and increased cost per civilian manyear supported. This increase is above the legislated pay raise, +$42.6 million.

Airport and Airways Revenue Act (PL 91–258). This Act, which was enacted after the submission of the FY 1971 budget, requires the Army to pay a tax on air movements, +$3 million.

Totaling $158.3 million for the Army.

Navy

Increased tempo of air operations in Mediterranean, $14.7 million.

Spare parts to provide increased readiness and reliability of Sixth Fleet ships, $6.7 million.

Increased tempo of ship operations in Mediterranean, $5.9 million.

Improved base support at Rota and Souda Bay, $1.4 million.

Increased costs related to SEA carrier based attack sorties and Marine SEA attack sorties in Seventh Fleet and Vietnam, $18.7 million.

Vietnamization/Coastal Radar and VNN supply system, $4.4 million.

Spare parts pipeline to support increased readiness and reliability of Sixth and Seventh Fleet ships, $10.7 million.

Spare parts pipeline to support increased readiness and reliability of Sixth and Seventh Fleet Aircraft, $12.0 million.

Increased transportation of ammunition to support SEASIA air operations, $3.2 million.

Increased transportation costs due to MSTS tariff rate increase effective March 1970 (dry cargo 8.4%, POL 9.4%), $5.6 million.

Increased depot handling and storage of ammunition to support SEASIA air operations, $6.4 million.

Totaling $89.7 million for the Navy.

Air Force

Peruvian Earthquake Expense, $0.2 million.

Aero-Medical Evacuation, $5.4 million.

Special Airlift-SEA Related, $7.8 million.

Training of Free World Forces, $10.0 million.

Delayed Inactivation of Bien Hoa, $6.5.

Combat Readiness Training, $3.0 million.

Increase in Civilian Average Annual Salaries, $36.0 million.

Rail Rate Increases, $1.7 million.

Stock Fund Surcharge Increase, $3.1 million.

P.L. 91–258, Airway & Airway Development Act, $5.3 million.

MAC Rate Increase, Effective 1 May 1970, $20.0 million.

MSTS Rate Increase, $3.5 million.

MAC Passenger Rate Increase, $3.0 million.

Totaling $105.5 million for the Air Force.

B. AIR FORCE RESERVE SQUADRONS, $23.9 MILLION

In the development of the President's Budget, plans were included to retire 5 C–119 Air Force Reserve Squadrons. It has been subsequently determined that these Reserve Squadrons are required and should be retained and equipped with C–130 aircraft. The C–130 aircraft are now available for equipping these units, but $23.9 million is required under Operation and Maintenance, Air Force to cover operating costs during FY 1971.

The House Bill approved this amount, but the Senate deleted the House add-on.

It is strongly recommended that the Conferees approve the House position—adding $23.9 million to O&M, Air Force. Awaiting supplemental action, with its uncertainty, would not provide an adequate basis for continuing these units in the Reserve force structure.

C. DEEP FREEZE, +$4 MILLION

The President's FY 1971 budget request contained $4.4 million in O&M, Navy for logistic support of the DEEP FREEZE scientific effort. This request was about $4 million less than prior years and in line with the House Committee's guidance in FY 1970 that the Navy commence phasing out its funding support of this effort.

The effect of this reduction would have been to cancel 80% of the scientific effort in FY 1971. Subsequently, the Antarctic Policy Group recommended:

(a) That the program be maintained at the current annual level.

(b) That the National Science Foundation, commencing in FY 1972, budget for both the scientific and supporting efforts, with the support being provided on a mutually acceptable reimbursable or non-reimbursable basis.

(c) That other aspects of program management and safety of operations remain as heretofore set forth in BUBUD Circular A–51 of August 3, 1960.

The National Security Council endorsed this course of action and the Chairmen of the Senate and House Appropriations Committee were informed on July 10, 1970 by the Assistant Secretary of the Navy for Financial Management.

The House Bill added $4 million to the Navy's request for this unbudgeted requirement; but this amount was deleted by the Senate.

It is recommended that the House position be approved. The uncertainty of a supplemental precludes planning for the higher level unless the House bill is approved.

NAVY SHIPS

Mr. ELLENDER. Mr. President, the House-passed bill included $417,500,000 for the following ships that were included in the Department of Defense Procurement and Research and Development Authorization Act, but which were not included in the President's budget:

One nuclear attack submarine, $166,000,000;

Long leadtime items for an additional nuclear attack submarine to be fully funded in the fiscal year 1972 budget, $22,500,000;

One submarine tender, $102,000,000;

One destroyer tender, $103,000,000; and

Service craft, $24,000,000.

The Senate disallowed the funds for these nonbudgeted ships. The committee of conference devoted a major portion of its efforts in attempting to resolve this matter, and the committee finally agreed to the inclusion of $188,500,000 for the following:

One nuclear attack submarine, $166,000,000, and

Long leadtime items for an additional nuclear attack submarine to be fully funded in the fiscal year 1972 budget, $22,500,000.

In agreeing to the inclusion of this $188,500,000 for these nonbudgeted ships, the Senate conferees did not change their position with respect to this matter of modernizing the fleet. In reporting the bill to the Senate, the committee stated in its report:

The Committee is fully aware that the existing age and condition of many ships requires an extensive program for the modernization of the fleet, and the Committee is anxious to participate in a comprehensive program to increase the effectiveness of the Navy. However, it is the view of the Committee that a program of this magnitude must proceed through the orderly appropriation process which requires both authorization and budget requests from the President.

This is still the position of the Senate Committee on Appropriations.

INTERNATIONAL FIGHTER AIRCRAFT

The President's budget and the House bill included $30,000,000 for the continuation of the international fighter aircraft program. The Senate disallowed the total amount for this program. The Senate committee's recommendation for the disallowance of these funds was based on the lack of adequate information on the program. I ask unanimous consent that the comments on this program appearing on page 156 of the committee's report and referred to as exhibit C be printed in the RECORD at this point.

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

EXHIBIT C

EXCERPT FROM SENATE REPORT NO. 91-1392, PAGE 156

International Fighter Aircraft (Freedom Fighter).—The House allowed the budget estimate of $30,000,000 for the continuation of development and production of the International Fighter Aircraft, which is in accord with the Authorization Act. The committee recommends the disallowance of the $30,000,000 allowed by the House for this program. In approving the $28,000,000 included in the fiscal year 1970 program for this aircraft, the committee stated in its report:

"The committee has taken no affirmative action on the proposal [International Fighter Aircraft]. In the event the Secretary of Defense determines to proceed with the development and procurement of this aircraft, *he is requested to so advise this committee of his decision along with a full statement on the basis for his decision.*" (S. Rept. No. 91-607, p. 94).

At this date, the Secretary of Defense has not complied with the above request, even though a contractor was selected on November 20, 1970.

The committee's recommendation for the disallowance of these funds is based on a total lack of information on the program. The justifications submitted in support of the budget request and the statements of representatives of the Department of Defense and Air Force did not provide the committee with adequate information on which to base a decision, and as stated above, the Secretary of Defense has not complied with the committee's request for detailed information on the basis for his decision to proceed with the development and procurement of this aircraft. Attention is called to the fact that as the Department of Defense Procurement and Research and Development Authorization Act passed the Senate it did not include funds for this program, however, the $30,000,000 authorization was restored in the Conference Committee on that legislation.

In recommending the disallowance of these funds, the committee calls attention to the fact that no part of the $28,000,000 provided for fiscal year 1970 had been obligated as of December 1, 1970. It is the view of the committee that these available funds are more than adequate to fund this program through the current fiscal year.

The committee expects the Department of Defense and the Air Force to submit the same type of information in justifying the request for funds for this program as is submitted for aircraft that are to be included in the Air Force's inventory.

Mr. ELLENDER. Mr. President, on November 20, 1970, the Department of Defense announced the award of a contract for the development and production of this aircraft. However, the statement requested by the committee in its report on the fiscal year 1970 bill was not received until December 10, 1970. I ask unanimous consent that this letter, with appropriate security deletions, be printed in the RECORD at this point as exhibit D.

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

EXHIBIT D

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C.

HON. RICHARD B. RUSSELL,
Chairman, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: Your committee has requested a full statement on the basis of our decision to proceed with development/procurement of an International Fighter Aircraft (IFA). In a related action, on 4 December 1970, your committee deleted the FY 71 IFA appropriation of $30 million.

This letter is a statement of the basis for the decision to proceed with the IFA. It also gives information which relates to concurrent Air Force reclamation to restore $30 million of FY 71 funds which will be used to maintain the program's contractual schedule.

A basic purpose of the IFA is to meet the needs of our allies under the principles of the Nixon Doctrine that will permit them to shoulder a greater portion of the common defense burden, allowing the U.S. to reduce manpower abroad.

The IFA is designed primarily to provide air defense of allied territory as well as close air support for local defense forces. This capability is required to meet the threat from the increasingly sophisticated air forces of Communist China, North Korea and North Vietnam. Potential recipient nations for the aircraft include South Vietnam, Thailand, South Korea, and the Republic of Free China.

As a matter of background information, on 20 November 1970 Secretary of the Air Force Robert C. Seamans, Jr., announced that the Northrop Corporation's F-5-21 aircraft had been selected as the winner of the IFA competition. On 24 November he authorized the Air Force to award the contract to the Northrop Corporation of Hawthorne, California.

This decision followed seven months of evaluation, analysis, and competition among four potential producers: McDonnell-Douglas Corporation, LTV Aerospace Corporation, Lockheed Aircraft Corporation, and Northrop Corporation. The competition was focused on providing US Allies and friends with a credible self air defense capability at the most reasonable cost. Economy of procurement and operation, reliability, simplicity and maintainability, in line with capabilities of the intended recipients, were also emphasized.

The IFA has a remarkable performance, especially when considered against the design contraints for economy and ease of maintenance. The maximum speed will be [deleted] Mach at [deleted] feet, with a combat ceiling of [deleted] feet. A maximum payload of [deleted] pounds of fuel and armament can be carried for close air support. In the counter air role, the IFA has a mission radius of [deleted].

Current program planning anticipates procurement of about 325 aircraft in fiscal year increments over a five or six year period. Each annual increment, of course, will be contingent upon Congressional approval. The first test aircraft is scheduled for delivery in [deleted] and the first production aircraft in [deleted]. A 325 aircraft production run would result in a total weapon system acquisition cost of $698.6 million, of which $104.1 million would be allocated to development.

To insure that this capability can be achieved within program funds, careful attention has been devoted to the selection of personnel and techniques to manage the program. A System Program Office has been established at the Aeronautical Systems Division at Wright Patterson AF Base. A major initial objective of this office has been to devise management methods to insure program economy and efficiency. Cost/Schedules Control Systems Criteria (C/SCSC) will be used to measure the contractor's performance. In this way, any deviation from contract cost, schedule, and performance will be reported early, thereby assuring that necessary management actions may be taken in a timely manner.

The aircraft will be procured by a fixed price incentive (FPI) contract. The sharing arrangement will be 70/30; ceiling price will be 120% of target price; and target-profit will be 10% of target cost. The contract is based on a production rate of 10 per month; however, it includes an option of plus or minus 50% within each fiscal year increment to allow maximum flexibility in meeting funding limitations and/or threat development. The contract contains a foreign sales clause for recovery of nonrecurring RDT&E costs in the expectation that the aircraft may be subsequently sold to foreign nations.

If you desire more detailed information, representatives of the Air Force are available to meet with you, committee members or members of your staff, as you might desire.

I trust this now satisfies the Committee's needs.

Sincerely,

DAVID PACKARD.

Mr. ELLENDER. Mr. President, the conference agreement includes $18 million for the continuation of the development of this aircraft, which amount along with $28 million made available in fiscal year 1970 will provide $46 million, which is adequate to maintain the Air Force's scheduled program. I want to make it clear that the action of the committee of conference does not constitute a full production decision on this aircraft. It was the intent of the conferees to provide adequate funds to continue the development program, which includes five test aircraft, and to provide $8.8 million for long leadtime items to support the production of this aircraft in fiscal year 1972, if such a decision is made by the Congress.

SECTION 838—SUPPORT OF FREE WORLD FORCES

The Senate amended section 838 of the bill dealing with funds for the support of free world forces to include the following provision which was included in section 502 of the Department of Defense Procurement and Research and Development Authorization Act:

Provided further, That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos.

The House conferees strongly opposed this provision on the ground that it tied the hands of the President in his efforts to bring about a withdrawal of U.S. forces from Southeast Asia. However, they finally agreed to accept this amendment if the following provision were included, which is applicable to all of section 838:

Provided further, That nothing contained in this section shall be construed to prohibit support of free world or local forces in actions designed to promote the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.

The Senate conferees accepted this proposal.

I was surprised to learn that there was considerable opposition here in the Senate to this provision, and as I stated, it is one of the issues that prompted me to move to table the first conference report and send the bill back to conference to attempt to get the House conferees to recede on this point.

I regret to inform the Senate that the House conferees were again adamant on this provision, and after considerable discussion in the second conference on this matter, the Senate conferees accepted the following new proviso:

Provided further, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war.

I am convinced that in order to obtain an agreement in the conference committee, we had to accept this proviso.

Mr. President, I think the intent of this provision was fully discussed in a colloquy here on the floor earlier this evening. However, as chairman of the Senate conferees, I want to make my position on this matter abundantly clear. It is certainly not the intent for the executive branch of the Government to interpret this proviso as the authority for a large-scale invasion, by South Vietnamese or other free world forces, of North Vietnam, Laos, Cambodia, or any other country, and I am confident it will not be so interpreted.

Throughout the consideration of this bill, and especially with respect to the $2½ billion that is authorized for the support of free world forces, it has been my position that these funds were to be used in order to restrict the scope of the present conflict in Southeast Asia, and I know of no possible way to place an interpretation on these various provisions that would justify an expansion of this conflict.

SECTION 843—INTRODUCTION OF AMERICAN GROUND FORCES INTO LAOS, THAILAND, AND CAMBODIA

The House-passed bill included section 843, which read as follows:

SEC. 843. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

The Senate amended this section to include Cambodia

As with section 838, the House conferees also opposed this amendment on the ground that it tied the hands of the President in his efforts to bring about a withdrawal of U.S. forces from Southeast Asia. It was clear to the Senate conferees that the House conferees would not accept the Senate amendment to include Cambodia in this section unless it was amended to include the following proviso:

Provided, That nothing contained in this section shall be construed to prohibit the President from taking action in said areas designed to promote the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.

After considerable discussion, the Senate conferees agreed to the amendment.

There was also strong opposition expressed to the addition of the proviso in the first conference, and this was the other issue that prompted me to move to table the first conference report.

I am happy to report that the Senate conferees were successful in their efforts to delete this objectionable language from the bill. As agreed to by the second conference committee, section 843 of the bill reads as follows:

In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

RELEVANCY OF DEPARTMENT OF DEFENSE SPONSORED RESEARCH PROJECTS

The Senate bill included the following provision with respect to the relevancy of Department of Defense sponsored research projects:

Section 845. No part of the funds appropriated in this Act may be used to carry out any research project or study unless such project or study has a direct and apparent relationship to a specific military function or operation.

In substance, this is identical to the provision included in the Department of Defense Procurement and Research and Development Authorization Act, 1970, that was available to the fiscal year 1970 research and development program.

The House conferees were strongly opposed to the Senate amendment and insisted that this matter had been covered by the enactment of section 204 of the Department of Defense Procurement and Research and Development Authorization Act, 1971—Public Law 91-441. This provision reads as follows:

SEC. 204. None of the funds authorized to be appropriated to the Department of Defense by this or any other Act may be used to finance any research project or study unless such project or study has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation.

In view of this opposition, the Senate conferees had to recede on this amendment.

Mr. President, I believe the report of the conference committee represents a fair and reasonable resolution of the differences between the two Houses, and I urge the adoption of the report.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. STENNIS. Mr. President, may we have order? Will the Chair ask Senators and others to desist in their conversations?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from North Dakota may proceed.

Mr. YOUNG of North Dakota. Mr. President, there is little I can add to the comments of the distinguished chairman of the committee, the Senator from Louisiana (Mr. ELLENDER), than what I had to say on the floor earlier this afternoon.

Mr. President, the amount of money provided in this bill is far below that which the Secretary of Defense deems necessary and is far below what the Joint Chiefs of Staff deem necessary for the defense of this country.

To me an adequate national defense should be the top priority of all. The money being spent for the various kinds of domestic programs is so great that this is the best possible appropriation that I believe could be obtained in this Congress.

We cannot continue this way for long, however; otherwise we are certain to become a second-rate military power to Russia with all of the consequences that would follow from such a course.

Mr. President, I do urge adoption of the conference report as the best possible bill that could be obtained in the Senate and in the House.

Mr. JAVITS. Mr. President, the Senator from Mississippi, the Senator from Louisiana, the Senator from North Dakota, and other Senators had a very important exchange with the members of the Foreign Relations Committee earlier

in the evening. I do not wish to go over that ground; and I shall not. I assure the Senator that I will be very brief. However, I do think that it would be very useful if the Senator from Louisiana would agree that this whole colloquy be made part of the debate in respect to the approval of the conference report, which undoubtedly will insue shortly. Would the Senator mind if I ask unanimous consent to do that?

Mr. ELLENDER. No, indeed. I had intended to do that.

Mr. JAVITS. Mr. President, I ask unanimous consent to have that colloquy printed at this point in the RECORD.

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

(Accordingly, the following colloquy, which occurred earlier in the day, is printed at this point in the RECORD:)

Mr. ELLENDER. Mr. President, I was very much interested in the debate that took place earlier on the Department of Transportation conference report. The procedure that was followed was the same as that followed by me this morning, when I moved to table the conference report on the Department of Defense appropriation bill, and request a further conference.

Mr. President, it is not my purpose to debate the issues at the moment, but I simply wish to lay before the Senate what took place in the second conference. As is known, we had the first conference over a week ago, and we had 4 long sessions before we were able to come to a conclusion.

After the report was filed, I sought to bring it up, but because of the strong opposition expressed by several Members of the Senate to two of the provisions in the conference report, I felt that we could not obtain a vote within a reasonable period of time. It was for this reason I moved to send the bill back to conference.

In the second conference—which took place today—we had two meetings. I think we have reached a conclusion that will be favorably received by the Senate. I will put in the RECORD information on the new agreements. It is my hope that the Senate will adopt this second conference report because it is imperative that this bill be enacted into law before the adjournment of this Congress.

The first conference retained the Senate amendments to sections 838 and 843 of the bill. The difficulty arose because the House insisted on putting two provisos in the bill which were not acceptable to quite a few Members of the Senate. Those provisos, were attached to the so-called Fulbright amendment, which is contained in section 838, and the so-called Cooper-Church amendment, which is included in section 843. All that language was included, as I have said, in the first conference report that was presented to the Senate with those objectionable provisos.

With respect to section 843 I wish to point out that in the second conference, the House agreed to strike the objectionable proviso, and we in turn agreed to strike the word "Cambodia," so section 843 now reads as it originally passed the other body. It is applicable only to Laos and Thailand.

With respect to the Fulbright amendment, which was included in section 838, that language remains intact, but the House conferees insisted on the inclusion of a proviso which did not materially differ from the proviso that was in the first conference report. This new proviso reads as follows:

Provided further, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. forces from Southeast Asia, or to aid in the release of Americans held as prisoners of war.

Mr. President, in order to have all the language before the Senate, I ask unanimous consent that all of section 838, as it was agreed to in conference, be printed at this point in the RECORD, together with the proviso I have just read.

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

SECTION 838(a)—SUPPORT OF FREE WORLD FORCES

SEC. 838. (a) Not to exceed $2,500,000,000 of the appropriations available to the Department of Defense during the current fiscal year shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine: *Provided*, That none of the funds appropriated by this Act may be used for the purpose of paying any overseas allowance, per diem allowance, or any other addition to the regular base pay of any person serving with the free world forces in South Vietnam if the amount of such payment would be greater than the amount of special pay authorized to be paid, for an equivalent period of service, to members of the Armed Forces of the United States (under section 310 of title 37, United States Code) serving in Vietnam or in any other hostile fire area, except for continuation of payments of such additions to regular base pay provided in agreements executed prior to July 1, 1970: *Provided further*, That nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos: *Provided further*, That nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. Forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.

Mr. ELLENDER. Mr. President, I also ask unanimous consent to have printed in the RECORD the language in section 843, minus, of course, the language that was deleted in the second conference.

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

SEC. 843. In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos or Thailand.

Mr. ELLENDER. Mr. President, as I have said, this Congress must not adjourn until we complete action on the Department of Defense bill. I thought that the members of the first conference had done a good job. When objection was made in the Senate to the provisos included in the bill, we returned to conference with the results we have discussed.

I am very hopeful that Senators will study this action and approve it so that the bill can be sent to the White House for the President's signature.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. ELLENDER. I yield.

Mr. YOUNG of North Dakota. Mr. President, I wish to join in the statement made by the distinguished chairman of the committee. He certainly did all he possibly could to resolve the differences in the way that the Senate could agree.

We had more than 250 amendments in disagreement. I think all of them have been resolved, with the exception of one on which there may be some disagreement. But the House conferees did go part way with us on amendment No. 52, which the Senator just discussed, the one in which the distinguished Senator from Arkansas (Mr. FULBRIGHT) is interested. The House went part way on it, and I am certain this is as far as they are going to go, so I hope that this conference report will be adopted.

Time is running out. The House is not going to agree to more conferences. Many Members of the House will be attending a funeral tomorrow. The day after that is the day before New Year's. So I see no possible chance, unless this conference report is adopted, that there will be a Defense bill and that there will even be a continuing resolution. The problem then rests with the Senate whether there will be a Defense appropriation bill or whether there will not be one. I can understand that there are some strong feelings with respect to Southeast Asia and the possible expansion of the war there. This may have been the problem a year or two ago, but certainly President Nixon has made his position clear that there will be no expansion of the war—and certainly public opinion would not stand for it, so I do not see any necessity for all these amendments trying to limit the constitutional powers of the President. I think that if this amendment were studied carefully, the Senate would approve it. It is the only one now in disagreement, No. 52.

Mr. STENNIS. Mr. President, if I may have the special attention of the membership, I should like to refer to the very fine work which has been done here by the Senator from Louisiana (Mr. ELLENDER) and the Senator from North Dakota (Mr. YOUNG), as well as other members on the conference—excepting myself, of course. This is a very difficult and delicate situation that this language has to deal with. The Senator from Arkansas has dealt with it in his skillful way. I think that the conference has come up with something that meets the requirements and the necessity for the military time, and the necessity for meeting the requirements of the restrictions avoiding an expansion of the war, which I never have favored, of going into Cambodia with the idea of sustaining that government regardless. I am not interested in our going in there as

a matter of carrying on the war that we are unfortunately engaged in now.

Mr. President, I want to extend my remarks further to say on this situation we are confronted with, with only 3 or 4 days left in this session, that we have been working on the bill and the authorization bill, too, for almost 12 months and almost 6 months of the fiscal year have already expired. So that in these last few days we must pass this Department of Defense bill. I believe it will be in this Chamber by noon tomorrow, or very soon thereafter.

Let us remember, too, that this matter of a continuing resolution, which is the law now, dies with this Congress. It will be as dead as Hector and we will have this monstrous military machine worldwide, with a war going on, and no money so far as the present situation is concerned. Therefore, I hope that all Senators will study this matter and that all Senators will put their shoulders to the wheel and pull together and push together to get the bill passed at a very early date.

Mr. President, now I wish to discuss the results of the meeting of the conferees today on the defense appropriations bill. Two sections were revised and resulted in compromise language which, in my opinion, is eminently fair to both the House and the Senate. Both of these sections relate to the use of defense funds in Southeast Asia.

The first of these, Mr. President, concerns Senate amendment No. 52 set forth on page 45 of the bill.

As the Senate may recall, this amendment, adopted in the Senate, repeated the language in the military authorization bill and contained the limitation as follows:

> Nothing in clause (1) of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos.

In the previous conference language was added which was also retained with slight modification in the conference just concluded. The proviso is as follows:

> Provided further that nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.

Mr. President, the conferees agreed that all of amendment No. 52 should be retained along with the revised House proviso.

Mr. President, the retention of the Senate language will insure that the so-called Fulbright floor amendment from which this language is taken, will stand and be enacted as a matter of law. It is certainly my intention that none of these funds referred to in clause (1) will be used to provide military support and assistance to the Government of Cambodia or Laos.

As we all know, the military aid proposal has been passed and provides a military assistance program for Cambodia.

The added House language merely allays any fears on the part of the House that this restriction would in any way prohibit actions designed to promote a safe and orderly withdrawal.

Let me emphasize, Mr. President, that there is no intent to permit an expansion of the war with any of this added language. There is no intent to authorize the use of South Vietnamese or other free world forces to go to the rescue of the Government of Cambodia or Laos with the use of these funds. I consider that the colloquy between myself and Senator FULBRIGHT on the procurement bill still stands—that is, that none of these restrictions are intended to prevent actions intended to keep the sanctuaries clear and to prevent Vietnamization. At the same time the line is clear that it is not meant to provide a device for military support of these two governments with Department of Defense funds.

I would also emphasize that the language in the authorization bill still remains law.

AMENDMENTS NOS. 54 AND 55

Mr. President, the other amendments relate to the use of funds for U.S. ground troops. Senate amendments Nos. 54 and 55 had the effect of saying that no funds shall be used to finance U.S. ground combat troops into Cambodia. The previous conference report contained language which was similar to what I have already discussed which added the proviso stating that this section—843—was not intended to prohibit actions designed to promote the safe and orderly withdrawal or disengagement of U.S. forces from Southeast Asia or aid in the release of Americans held as prisoners of war.

Mr. President, in the conference action today amendments Nos. 54 and 55 and all of the House-added proviso was dropped. As we know, in the Military Assistance Act there is a prohibition on the use of funds for U.S. ground troops in Cambodia. New section 843 will now prohibit the use of funds for the introduction of American ground troops in Laos or Thailand.

Mr. President, the House in effect receded on amendments Nos. 54 and 55. The only matter in the Senate bill that was not contained in the version passed by the Senate on this issue is the additional language in section 838. I do not believe this additional language weakens the intent or the purpose of the so-called Fulbright amendment. The entire package of the revisions to sections 838 and 843 is a reasonable one and I think the Senate should adopt the conference report when this matter is brought to a vote.

LARGER ISSUE INVOLVED

Mr. President, a fundamental issue is involved in the pending conference report on the Defense Appropriations Act for fiscal year 1971. This bill has been before the Congress for almost 12 months and has been worked on continuously. It is a bill of which the Senate can be proud. The President's request of $68.7 billion was reduced to $66.8 billion by the House or $1.9 billion and the Senate made further reductions of $389 million which resulted in a bill of $66.4 billion. The final conference amount was $66.6 billion which was $2.15 billion below the budget request. For the Senate to reject this conference report at this time is to say the bill in all its totality should not be adopted as a matter of law in its present form.

I wish to raise another issue. The continuing resolution under which the Department of Defense is now operating expires with the close of this Congress on January 3. If we do not enact another law either in the form of this Appropriations Act or another continuing resolution, the entire Department of Defense operation will come to a halt. This could be a national calamity of untold proportions. The Senate, as a reasonable legislative body, cannot allow such action.

Mr. President, there must be a vote on this appropriation bill and I urge the Senate to work its will on this matter and adopt the conference report.

Mr. FULBRIGHT. Mr. President, I certainly do not wish in any way to criticize the Senate conferees. They have been confronted with an extremely difficult situation. I had hoped that they would strike all of the language that has been referred to as my amendment. The amendment was the same as the language carried in the Defense authorization bill. I had assumed that that would be acceptable to everyone concerned since it was in the authorization bill. But the additions that have been made to it by the House conferees could be interpreted as nullifying the intent of the amendment, in my opinion. I think that what the Senator from Mississippi has in mind about this matter is very similar if not the same as mine—that is, not to expand the scope of the war and not to authorize the payment with our money for the Vietnamese Army to go in and occupy indefinitely the territory of Cambodia—or Laos for that matter—but Cambodia is the one that has been primarily and directly involved. But Laos is a concern also, particularly in view of a recent news story quoting Admiral Moorer. I do not believe that is what the Senator from Mississippi wants, either. I certainly do not want that.

It is difficult to deal with the legislation. I would have preferred that the language of my amendment and the proviso put in by the House conferees be stricken. This kind of problem is difficult to deal with in an appropriation bill.

I would like to ask the distinguished Senator from Louisiana about his interpretation of it.

The Defense Authorization Act contains the same prohibition as Senate amendment No. 52 in the appropriation bill. Does the manager of the bill consider that the terms of the amendment in the authorization act apply to the $2½ billion appropriated by this bill, in spite of the fact that a proviso has been added in the appropriation bill?

Mr. ELLENDER. Not unless it is repeated in the appropriation act. I wish to tell my good friend from Arkansas that one of the reasons the House insisted on this language was that the House has already voted on the issue. The Senator well knows that the matter of the release of American-held prison-

ers is highly emotional. They insisted that that language be left in the bill because, as I said, they had already voted on it. For that reason they insisted that language should remain. There was no way to change their minds.

The agreement we made is final, in my view. It is the best we could obtain.

Mr. FULBRIGHT. Of course, I say to the Senator, it depends on how we interpret this language. Does he consider that the language added by the House broadens the restrictions of the amendment carried in the authorization bill?

Mr. ELLENDER. I do not think it does. If the Senator will read the proviso carefully he will note that it makes it clear the funds can be used for actions by the South Vietnamese and other free world forces to facilitate the withdrawal of U.S. troops from Southeast Asia and also to aid in the release, if possible, of American prisoners of war.

Mr. FULBRIGHT. Where?

Mr. ELLENDER. Well, wherever they are.

Mr. FULBRIGHT. In North Vietnam?

Mr. ELLENDER. Yes, but the President has that right, if he wants to exercise it, right now. The Senator knows that an effort was made about 2 or 3 weeks ago to rescue prisoners of war in North Vietnam. But the point I want to make is that, as I said, the House insisted on retaining this language because it had already voted on the matter, and it certainly was not in a position, as I was told, to go back and revoke what it had done last week.

Mr. FULBRIGHT. I want to make it clear—I will ask the Senator—it is not clear that this language relates only to the support of Vietnamese or other free world forces, and not our own forces——

Mr. ELLENDER. That is right.

Mr. FULBRIGHT. That is correct?

Mr. ELLENDER. That is correct.

Mr. FULBRIGHT. In other words, this could not be interpreted in any fashion as a restriction on the President as to what he does with American forces?

Mr. ELLENDER. No.

Mr. FULBRIGHT. Whether he has the constitutional right to use American forces to invade North Vietnam or Laos or any other place is another question and is not involved in this particular issue.

Mr. ELLENDER. The Senator is correct.

Mr. FULBRIGHT. What bothers me about the language that has been added by the House is that it seems not to be a restriction, but to be an authorization and a recognition of his right to use American money, money appropriated here, to support the South Vietnamese, the Thai, or Korean forces for an invasion of North Vietnam. This is what has bothered me all along. That is why I said that I would much prefer that all of this language be stricken rather than to be in a position of having language which would authorize our paying for the South Vietnamese Army to invade North Vietnam for the alleged purpose of dealing with prisoners.

I think this is very dangerous language. It would be in a sense an invitation to the South Vietnamese to undertake such a project, and we would be authorized by this bill to support that army.

Mr. ELLENDER. Of course, the Senator has a right to his own interpretation.

Mr. FULBRIGHT. Mr. President, how does the Senator interpret it? Does he interpret it that way?

Mr. ELLENDER. No. I do not think that this language can be considered as an authority to use the funds for a large-scale invasion of North Vietnam by the South Vietnamese. We have made it clear that these funds cannot be used to support the South Vietnamese in actions to support the governments of Laos and Cambodia. However, this proviso makes it clear that these funds can be used to support South Vietnamese and other free world forces in actions designed to bring about the withdrawal of U.S. forces from Southeast Asia, and to aid in the release of American prisoners of war.

As I said, what was intended and what the House voted on was simply to give the President the right to support Vietnamese and other free world forces in order to help extricate Americans from Southeast Asia if it becomes necessary. It is just that simple. And that is all that language means.

Of course, the Senator could interpret it in any way he pleased. I do not think such an interpretation is valid.

Mr. FULBRIGHT. Mr. President, it certainly is meaningless then. I do not know what it is intended to mean.

Mr. ELLENDER. Mr. President, as I said, the House insisted on it since they had voted for it last week. They did not feel they could go back to the House and have the language that was voted on stricken, particularly when it dealt with such an emotional subject as prisoners of war. The point was made on many occasions by the author of the amendment, Representative Whitten of Mississippi, that the House had already voted on approving the use of Vietnamese and other free world forces if necessary to help extricate American prisoners of war.

The House conferees took the position that they did not want to go back to the House and say, "We did not mean what we voted for last week." They insisted on it. We tried to have them withdraw this language, but to no avail. That is the best we could do.

Mr. President, as I said, I do not care how long we might deliberate in conference, I do not believe it would be possible for us to have the House delete the language in question.

Mr. FULBRIGHT. Mr. President, what bothers me about this kind of language, especially in an appropriation bill, is that it is language that no legislative committee has ever considered or held any hearings on in order to determine precisely what it means. Some who read it may think that it authorizes the President, not to use our troops to release our prisoners, but to hire the South Vietnamese Army and to pay them to go north for the purpose of releasing American prisoners of war.

In other words, it could be considered to be authority to expand the war. Again, I hate to always be referring to this, but the sad experience we had with the previous administration with reference to such resolutions as the Gulf of Tonkin forces me to do so. We were sold on that resolution on the ground that this was the way to stop the spread of the war, that this was the way to convince North Vietnam that it was in their interest not to have a widening of the war and that this was what was intended by it.

It was later used as authority for conducting war by the preceding administration. We are all familiar with that story. I do not want to say anything further about that aspect of it.

I think that if the Senator from Louisiana and the Senator from Mississippi, the conferees, could at least help, if we are faced with a fait accompli. They could say that they do not understand the language that way and that they think it would be a gross distortion of the meaning of the Senate conferees that this be construed as authority to pay for Vietnamese troops or any other free world troops—Thai, Korean, or any other—to mount an invasion of North Vietnam for an alleged purpose of freeing prisoners of war in this case. I do not believe that is what the Senate intended.

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

Mr. FULBRIGHT. I yield.

Mr. DOLE. Mr. President, first of all, I commend the conferees.

Mr. President, I understand somewhat the mood of the House. They did pass in late November a resolution after the Son Tay raid by a vote of 347 to 35. The Senator from Kansas had a somewhat similar resolution adopted by the Senate unanimously with the assistance of the Senator from Arkansas.

I share the concern of the Senator from Arkansas.

There is no question in mind of the Senator from Arkansas about the right to use American troops to rescue American prisoners. He does not question that right?

Mr. FULBRIGHT. Well, in this case he did use our troops.

Mr. DOLE. A question is raised by the Senator from Arkansas on the use of South Vietnamese or other troops.

Mr. FULBRIGHT. This does not relate to our own troops. This proviso relates to the use of our money to pay for foreign troops for the purpose of rescuing American prisoners of war and/or other purposes.

Mr. DOLE. The question raised by the Senator from Arkansas concerns the proviso that "nothing in this section shall be construed," and so forth.

Mr. FULBRIGHT. By foreign troops.

Mr. DOLE. But the Senator from Arkansas would not object if an opportunity presented itself where American prisoners of war could be freed by South Vietnamese?

Mr. FULBRIGHT. We are not discussing that. If the Senator is asking me whether I would prefer to have a mounting of an invasion of North Vietnam for this purpose, an all-out invasion to overrun it, I do not think that I would as a matter of policy. But that is not the issue here.

Mr. DOLE. I did not suggest that.

Mr. FULBRIGHT. I raise no question about the President's authority to do what he did. I raise a question only about the wisdom of the operation, not know-

ing whether any prisoners were there. It was not a question of whether he had the right to do it as the President. I did not raise that point at the time.

I think the Senator knows, as he has already stated, that a very similar resolution passed the House.

We get into an entirely unrelated question, however. We are talking now only about, if we withdraw, what we are going to do in the way of paying for operations by South Vietnamese and other troops.

I advocated and urged the conferees to take all of this language out when I saw the complexities that had arisen. I had originally thought from this language without the proviso in the authorization bill, there would be no objection to it. Normally, that language having been accepted once before, one would have thought there would be no objection, but they simply turned it around. Often, in many cases the authorization language is carried over into the appropriation bill, but here this proviso could have the effect of changing the whole purpose and be used as additional authority, if someone wants to stretch it that far.

The Senator from Mississippi emphasized to me privately, and I think he indicated a moment ago, the use of these foreign troops to protect our own troops in connection with withdrawal or the process of Vietnamization was what he had in mind. I believe he does not think this provision would authorize paying for expenses of the South Vietnamese Army to occupy Cambodia or Laos or to support either of those governments independent of the direct relationship of the situations there to our own troops.

Mr. DOLE. It appears to me that since we are withdrawing from Southeast Asia, that that is the purpose of the proviso, to make certain we do not limit the forces of South Vietnam or the free forces in assisting us from withdrawing from Southeast Asia, or in the event of the proper rescuing of American prisoners. I fail to detect any escalatory language. It is restrictive but does make provisions to help us withdraw from Southeast Asia.

Mr. FULBRIGHT. The South Vietnamese do not always have the same objectives we have. There has been a long and ancient rivalry between Cambodians and the South Vietnamese, as well as between the Thais and Cambodians. To assume that their objectives are the same as ours is not supported by the facts. Our objective is to withdraw troops, as announced by the President. I thought the language originally written and adopted in the authorization bill was satisfactory to everyone. In view of the action of the House conferees I think it would be much better not to have this language. If we are faced with accepting this I hope the Members of this body would make it very clear, if they so believe, that this should not be interpreted as any authorization for our supporting a South Vietnamese army to take over the occupation of Cambodia, Laos, or North Vietnam, because that is a matter for them to do independent of us.

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

Mr. FULBRIGHT. I will yield the floor or I will yield to the Senator, whichever the Senator desires.

Mr. ALLOTT. I would like to have the Senator yield to me, if he would.

Mr. FULBRIGHT. I yield.

Mr. ALLOTT. As a member of both of these conferences and a member of the Defense Subcommittee on Appropriations, I have been a participant in all of this. I understand the Senator's concern. This morning I thought for a while, frankly, in the conference that we could prevail with the suggestion that we strike all of this language.

Mr. FULBRIGHT. Yes.

Mr. ALLOTT. It should be a good lesson to all of us to quit placing all these limitations on these bills; then we would not get into so much trouble. But we could not prevail and although the Senator from Louisiana (Mr. ELLENDER) has expressed it adequately, I would like to make some observations.

The question that arose was the question over the prisoners of war and upon this matter they were absolutely adamant. To a man they said absolutely that having voted once to put in the prisoner of war words and having voted once, they could not and would not go back to conference. They were as adamant on this one point as any group I have ever seen.

Looking at the legislation that came out, and section 838, as it now stands before the Senate, it states:

> Not to exceed $2.5 billion—

And then skipping some words—

> shall be available for their stated purposes to support: (1) Vietnamese and other free world forces in support of Vietnamese forces; (2) local forces in Laos and Thailand; and for related costs, on such terms and conditions as the Secretary of Defense may determine.

And then it is provided that the first proviso is not a burden to our troops and we will skip some language.

Then it states:

> *Provided further*, That nothing in clause (1)

That is the Vietnamese and other free world forces—

> of the first sentence of this subsection shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the government of Cambodia or Laos.

So taking subparagraphs (1) and (2) above, and applying the limitation below that, I think the Senator will concede he has all he wants, going that far.

Mr. FULBRIGHT. Yes. That is the same as in the authorization bill.

Mr. ALLOTT. That is correct.

Now, coming to the language that follows, and I believe the Senator from Louisiana (Mr. ELLENDER) may correct me, if I am wrong, they offered some language, we amended that, and I am sure this is not the original language they offered.

Mr. ELLENDER. Basically it is.

Mr. ALLOTT. But it was changed by us around the table.

Mr. ELLENDER. Yes.

Mr. ALLOTT. The language states:

> *Provided further*, that nothing contained in this section shall be construed to prohibit support of free world or local forces in actions designed to promote the safe and orderly withdrawal or disengagement of United States troops from Southeast Asia.

I am sure that does not bother the Senator.

Mr. FULBRIGHT. No, as interpreted by the Senator from Mississippi and other language he put into the report.

Mr. ALLOTT. Now, we come to the last few sentences, which is cause of concern to the Senator, and in view of the way he has been burned in the past, I can understand it:

> Or to aid in the release of Americans held as prisoners of war.

I explained the House attitude on that. Now, the only question left is whether this is to be broadly interpreted, such as the Gulf of Tonkin resolution was stretched a few years ago. Is this to be taken as a resolution to permit these forces we are talking about in the beginning of section 838 to mount an invasion of Cambodia or Thailand or North Vietnam under the guise that it is done for the liberation of prisoners?

Mr. FULBRIGHT. That is correct.

Mr. ALLOTT. I can only say this to the Senator. As far as I am concerned, there is no such element in it, and I am sure, listening to the conferees in the House all day, there is no such element as that in the minds of the conferees from the House.

I am sure if the distinguished Senator from Maine were here, and she was another member of the conference, she would say the same thing. Other members of the conference were the Senator from Louisiana, the Senator from Arkansas, the Senator from Missouri, the Senator from North Dakota who is behind me. They would all say exactly the same thing; that this is to be considered and interpreted in a restrictive manner and that is it is strictly what it says, which is to aid in the release of Americans held as prisoners of war.

Let me say for myself, and I am sure every member of the conference committee will agree, that as far as this is concerned, not one of us would vote for this language if we thought it meant by interpretation the possibility of an invasion, which the Senator from Arkansas is so concerned about. I do not know that I personally can add more than I have except to try to eliminate all of these other things and to bring it down to this one question and say this is how we all feel about it. I am sure no one disagrees with me.

Mr. YOUNG of North Dakota. Mr. President, will the Senator yield?

Mr. FULBRIGHT. Certainly.

Mr. YOUNG of North Dakota. I want to associate myself with the remarks made by the distinguished Senator from Colorado. There is no intent to broaden it. In fact, there is no possibility of that with South Vietnamese troops now in Cambodia. The fact that they are there makes this language more limiting in nature. There are two purposes for the assistance—our withdrawal of troops and rescuing our prisoners. We do have about 75 prisoners in Cambodia. There might be a problem there. If there is, I

do not think there could possibly be objection to trying to get them out. The South Vietnamese are presently helping Cambodia. I think this language to some extent serves the purpose of the language sponsored by the Senator from Arkansas.

Mr. COOPER. Mr. President, will the Senator yield on that point?

Mr. FULBRIGHT. I yield.

Mr. COOPER. I will read the language which was first offered by the House conferees. The House language follows.

Provided further, That nothing contained in this section shall be construed to prohibit support of free world or local forces in actions designed to promote the safe and orderly withdrawal or disengagement of U.S. forces from Southeast Asia.

The House language which is now presented to the Senate is more limited, and restricted. It reads:

nothing contained in this section shall be construed to prohibit support of actions required to insure the safe and orderly withdrawal or disengagement of U.S. forces . . .

I was very interested in the statements made by the Senator from Colorado, the Senator from North Dakota, and the Senator from Louisiana, all conferees. They provide an interpretation of this section. Would they say the proviso must be construed to mean that our support of Vietnamese or other free forces goes only to their use to insure and to protect the withdrawal of U.S. forces from Southeast Asia?

Mr. YOUNG of North Dakota. That is exactly what the language says.

Mr. COOPER. We have argued for months in the Senate over the war power of the President. It has been interpreted many times on this floor that he has the power as Commander in Chief to protect American forces. I do not think there is any question about that. The differing ways that the power can be used is subject to debate, but in the present case—that is, regarding the war in Vietnam I believe the colloquy between the Senator from Idaho (Mr. CHURCH) and the Senator from Mississippi (Mr. STENNIS) on December 15 established very well what that power means.

Do the Senators who are conferees agree that the proviso which appears in the conference report is designed chiefly for the protection of our Armed Forces under the constitutional power of the President?

Would the Senator from North Dakota answer that question?

Mr. YOUNG of North Dakota. That would be my understanding of it.

Mr. COOPER. What does the Senator from Colorado say?

Mr. ALLOTT. Yes; I shall be glad to answer for myself. Probably the right person to answer is the chairman of the committee, but the answer is "Yes."

Mr. ELLENDER. That is my answer.

Mr. COOPER. The concern I have about the language has been expressed by the Senator from Arkansas (Mr. FULBRIGHT). But, I must say that the President of the United States and the Secretary of State have said publicly that the policy of the administration is withdrawal of our forces. In convention with the express policy of the President the interpretation given today is of extreme importance.

Inasmuch as the language in question is the House language, I would like to ask the Senate conferees if their interpretation of the language is as important and as binding as the interpretation of the House managers?

Mr. ALLOTT. I would like to be corrected if either the Senator from North Dakota (Mr. YOUNG) or the Senator from Louisiana (Mr. ELLENDER) have a different understanding, but in listening to all the discourse I detected not one word that would indicate that their interpretation of this language would be any different than the one we have tried to place on it on the floor. There was not one word said in the whole conference to indicate otherwise.

Mr. FULBRIGHT. Mr. President, I would like to put in the RECORD the explanation in the report of the defense authorization bill for this year on the provision which led up to the amendment. I refer to the Armed Services Committee's report of July 14 and its explanation of the intent of the Armed Services Committee. I would certainly take it that this section, with the proviso, is still consistent with what the Senator has expressed.

Mr. ALLOTT. That is correct.

Mr. FULBRIGHT. I ask unanimous consent that that portion of the report be printed in the RECORD.

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

In making this clarification it must be clearly understood that there is no intent to broaden the authorization beyond the support of participation in border sanctuary and related operations in order to protect U.S. forces in Vietnam or to accomplish protective reaction strikes. The purpose of the clarification is to make clear that the use of Defense funds is authorized for support in those areas of Cambodia where for the purposes of Vietnamization or the protection of U.S. troops military action becomes necessary.

There is no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian Government.

Mr. FULBRIGHT. I also ask unanimous consent that a part of the debate at that time be printed in the RECORD, so we will have a legislative record.

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

[From the CONGRESSIONAL RECORD, Aug. 20, 1970]

AMENDMENT NO. 812

Mr. FULBRIGHT. Mr. President, I call up my Amendment No. 812.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment (No. 812) as follows:

"On page 19, after the period in line 8, insert the following: 'Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos."

The PRESIDING OFFICER. There is no unanimous-consent agreement on this amendment.

Mr. FULBRIGHT. There is no agreement on this amendment. After conferring with the Senator from Mississippi, we are not prepared at this time to make an agreement, but I would like to make a statement, and then we will either arrive at a time later or go to a vote.

Mr. PASTORE. Mr. President, do we expect to vote on this amendment tonight?

Mr. STENNIS. Mr. President, if the Senator will yield, I really do not believe that we can dispose of the amendment this evening. It is too late. There is a complication about it. I think we ought to open the debate and perhaps, tomorrow, agree on a time to vote on it, somewhere around 12 o'clock. This is the way I see it now. I do not think we ought to agree now.

Mr. PERCY. Mr. President, if the Senator will yield, we have a unanimous consent agreement for a vote at 12 o'clock.

Mr. STENNIS. We can arrange it tomorrow. I would like the debate to start.

Mr. FULBRIGHT. Mr. President, I shall make my statement on the amendment now.

The amendment would carry out the intent of the Armed Services Committee by prohibiting the use of Department of Defense funds to finance Vietnamese or Thai military operations in support of the Cambodian Government. In addition, it would go one step further and prohibit use of Defense Department funds for military actions by these countries in support of the Laotian Government.

The Armed Services Committee's report states:

"There is no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian Government."

The committee is to be commended for drawing the line on use of U.S. tax dollars to finance a war by proxy in Cambodia. Recent events prove that its concern over growing U.S. involvement in propping up the Lon Nol government, through third countries, is well justified.

According to press reports a de facto military alliance exists between South Vietnam and Cambodia. Nearly 2 months after all U.S. ground forces were taken out of Cambodia, 20,000 Vietnamese troops are still spread throughout much of the country, fighting side by side with Cambodian units. Apparently, it is now standard practice for U.S. aircraft to provide close air support for Cambodian units in the thin guise of "interdiction" operations.

The extent of Thailand's current involvement is not yet clear. But the State Department has admitted that tentative—I repeat, tentative—have been reached with Thailand for sending 5,000 "volunteer" troops to Cambodia. That was the report I referred to in connection with the former amendment.

The State Department spokesman said on August 14:

"The nature and extent of whatever support we may provide will depend in part on arrangements worked out between the Thai and Cambodian governments, including the training and disposition of the troops involved."

I interpret this as meaning, in plain English, that we will foot the bill for whatever deal the Cambodians and the Thais decide to make among themselves. Unless the Congress acts it is likely that the American taxpayers will again find themselves the hapless victims of a fait accompli by the executive branch which sucks the United States ever deeper into the quagmire of Cambodia.

The history of the U.S. relations with the Asian nations that, at our urging, send troops to Vietnam is replete with deception

and coverup by executive branch officials. Both the Congress and the public have been victimized by a conscious policy to hide the facts about the nature of the agreements with South Korea, Thailand, and the Philippines. If it were not for the diligent work of Senator SYMINGTON'S subcommittee the public would still be in the dark about the price exacted from us by those countries. I am sure that the Thais would welcome a United States promise to make Cambodia a profitable operation for their troops, as we did for them in Vietnam.

In any debate over paying other countries to fight a war in Cambodia for us, which is what this amendment is all about, we should not lose sight of a fundamental lesson from our experience in Vietnam; wherever American tax dollars for waging a war go, the American flag inevitably follows. There will be no winning of the war in Cambodia on the cheap, by paying foreign forces to do the fighting. Once the decision is made to try to save Cambodia with foreign troops the die will be cast and our involvement—and our unwritten commitment to save Cambodia—escalated. What will the President do, for example, if Communist forces threaten Thailand in response to a Thai move into Cambodia? Will he be likely to refuse to answer Thailand's call for help under the SEATO Treaty? The possible consequences of encouraging the Thais to go ino Cambodia are far more serious than the tens of millions of dollars it is likely to cost us. The cost may very well be a far wider war.

T. D. Allman, the experienced and perceptive reporter who was banished by the Cambodian Government several days ago, had an article in the July 23 issue of the Far Eastern Economic Review describing the growing U.S. involvement in the war. He ended by quoting a neutralist ambassador in Phnom Penh, who said:

"From the very beginning Lon Nol and Sirik Matak were absolutely confident that the United States would rescue them. They seem to have been completely right."

It appears that only through action by the Congress can they be proven to have been wrong.

My amendment goes a step beyond the committee's position by prohibiting U.S. funding of Vietnamese military operations in support of the Laotian Government. It is, I believe, a logical extension of the committee's intent, and but another step in the Senate's attempt to establish outer limits on American involvement in what has become a general war in Southeast Asia. The Senate has now gone on record twice as saying to the executive branch that it cannot go beyond certain bounds in prosecuting the war. It has said, in effect, that "although we may be up to our neck in the quagmire, we are not going to march in over our head." This amendment builds on the Senate's action of last December in prohibiting the sending of U.S. ground troops to Laos or Thailand, and on the Cooper-Church amendment prohibiting further U.S. involvement in the war in Cambodia. Thus far the executive branch has chosen to ignore the Senate's intent in passing the Cooper-Church amendment. By providing U.S. air support to Cambodia forces and in agreeing to pay Thai forces to fight in Cambodia, it has emphasized the danger of delaying further in drawing the line to deeper involvement in either Cambodia or Laos.

My amendment is also consistent with the administration's policy on Laos, as I understand it. On May 18, Secretary Laird when questioned before a subcommittee of the Foreign Relations Committee concerning possible incursions by United States or Vietnamese forces into Laos said:

"The important thing . . . to bear in mind is that a force engaged in combat or carrying out an operation in the border area quite possibly could have crossed the border when it was engaged in combat. It is necessary, from time to time, as far as the South Vietnamese are concerned, to do that, but I want it made very clear that there has been no change. Their mission is not a ground combat mission or a search-and-destroy mission or anything like that. Their activities are in connection with either a battle that is being carried on at a particular time or the air interdiction campaign or rescue operations that may be carried out on the Ho Chi Minh Trail.'

Later, when asked specifically by Senator GORE if the "rules of engagement" applicable to U.S forces applied to Vietnamese forces as well, he said:

"The rules of engagements so far as South Vietnamese and U.S. forces located along the border with Laos are concerned are still the same."

Yet, pressures have been at work to send the Vietnamese Army into Laos. Two days before Secretary Laird assured the Foreign Relations Committee that the United States did not support a Vietnamese invasion of Laos, a Laotian Defense Ministry spokesman, according to the New York Times, "suggested that, from a military point of view, it was necessary that South Vietnamese forces intervene to help 'clean up' Laos." And news reports periodically appear stating that the Vietnamese are preparing to do just that.

On July 25 the Washington Star cited reports—

"Vietnamese army commanders are eager to obtain political permission for a major strike into Southern Laos."

The same story reported:

"Lao Communists have accused the United States of 'preparing a dangerous military adventure with U.S., South Vietnamese, Thai, and Lao troops in the panhandle of southern Laos."

In recent days, the Pathet Lao have charged that the United States has sent Vietnamese army units into Laos. Such charges by the enemy have often proved to be very close to the mark in the past.

The possible consequences of a Vietnamese move into Laos are grave. The Chinese-owned Hong Kong Standard has warned that an escalation of the war into Laos "will inevitably bring in the Communist giants" and reminded its readers of China's intervention in Korea. I do not believe that the Congress should leave any opening for the Vietnamese to escalate the war in Laos or risk provoking China into intervening. The only way to lock the door to Vietnamese adventurism in Laos is to cut off the money. That is the purpose of the second part of my amendment.

I feel confident that members of the Armed Services Committee had no desire to authorize U.S. financing of Vietnamese support for either the Cambodian or the Laotian Governments. But the change in the existing law proposed by the committee, opens the door to financing Vietnamese troops wherever they may be. Existing law authorizes Department of Defense funds to be used to support "Vietnamese and other free world forces in Vietnam." The committee proposes to change that to read:

"Vietnamese and other free world forces in *support of Vietnamese forces.*"

Although the committee's stated intent was to make it clear that U.S. funds can be used to support Vietnamese operations in the Cambodian sanctuary area and for "protective reaction strikes in these locations" the change in language permits the executive branch to foot the bill for any operations the Vietnamese choose to undertake, including an invasion of Laos or China. And it would also permit the financing of any Thai operation in Laos or Cambodia as long as it is claimed that the action is to aid Vietnamese forces in these countries.

There is certainly no assurance that the executive branch will follow the committee's restricted intent when the language in the statute is far more broad. And, the Senate has no assurance that the House conference report will not seize upon a generous—and quite different—interpretation of the new wording, superseding the effect which the Senate committee hoped to achieve. If the legislative history is confused, we can be sure that the executive branch officials who will be implementing this authority will choose the broadest interpretation possible. The only practical way to insure that the language is not used to finance Vietnamese military adventures in Cambodia and Laos is to say so in the statute.

The Senate is slowly but surely imposing effective limits on U.S. involvement in this tragic war. To approve the language in the bill, as now written, would reverse that process and invite a further expansion of the war by the Vietnamese and the Thais, using an American proxy. I hope that the Senate will continue to build on the record of the past and adopt this amendment by an overwhelming margin.

Mr. President, as I conceive this amendment, it is, as I said, a further step in the same direction taken by the Cooper-Church amendment, which was passed by this body only recently. It is also consistent with the amendments offered by the Senator from Kentucky and others last December on an appropriation bill, forbidding the sending of American ground combat troops to Laos and Thailand.

All we are saying now is that money in this bill shall not be used to finance Vietnamese troops to go into Cambodia or into Laos.

There is an article in today's newspaper, supplementing what I have just read from other newspapers, indicating that the Vietnamese are preparing and anxious to go into Laos.

I ask unanimous consent to have printed in the RECORD an article by Murrey Marder, published in this morning's Washington Post, and other articles on the same subject.

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

[From the Washington Post, Aug. 20, 1970]

ALLIED ROLE SEEN BASIS OF LAO CHARGES

(By Murrey Marder)

Allied sources acknowledged yesterday that clandestine reconnaissance units operating in Laos may be the target of the latest Communist charges of war escalation.

For years there has been secret penetration of the Laotian border from the South Vietnamese side by allied patrols, air spotters, and sometimes raiding parties, hitting the Ho Chi Minh infiltration trail area. It was not determinable yesterday, however, if these covert actions suddenly have been intensified or not.

The latest public charge by the pro-Communist Pathet Lao that the United States introduced Saigon "army units" into Laos could be an attempt to forestall an anticipated South Vietnamese bordercrossing attack in force, U.S. sources noted, or it could be for psychological warfare purposes.

Washington and Saigon sources concede that their military planners are urgently pressing for sizable border crossings into Laos. But these sources say both capitals still regard such operations as too hazardous in domestic and international political terms for the Nixon administration to risk at this time.

The Defense and State Departments in Washington and official sources in Saigon yesterday reiterated their carefully phrased standard disclaimers concerning operations in Laos. These statements are designed to sound like sweeping denials; however, they

contain semantic loopholes to circumvent official acknowledgment of clandestine operations.

American spokesmen, in answer to questions, again denied there are any "U.S. ground combat troops in Laos." The Defense spokesman noted that United States aircraft, including helicopters, engage in "air interdiction" against the Ho Chi Minh trail and in "rescue operations which contribute to the safety and security of U.S. and allied personnel," and that the South Vietnamese government has denied sending its "troops" into Laos.

Neither this statement nor one by a State Department spokesman, however, faced the question of whether U.S. helicopters are dropping South Vietnamese patrols into Laos.

"PROTECTIVE REACTION"

A State spokesman went a bit further but still stopped considerably short of the question. He noted that in the past it has been stated that: "Small groups of South Vietnamese have had to cross the border in 'protective reaction' operations; those forces may or may not have been accompanied by American advisers."

A new variation on what the Pathet Lao charges is going on was broadcast late Tuesday night. It claimed the United States is sending "Saigon puppet units" into the Dak Lang area of Saravane province "so as to coordinate action with the Lao puppet (anti-Communist) troops there."

From Saigon the Associated Press reported that despite official denials there, sources said most of the reconnaissance patrols going into Laos "are landed by U.S. helicopters along the 200-mile Ho-Chi Minh trail in the lower panhandle of Laos to spot targets for American bombers."

[From the New York Post, Aug. 10. 1970]

THAIS GETTING UNITED STATES INVOLVED?

(By William J. Coughlin)

BANGKOK, THAILAND.—Thailand's growing participation in the Cambodian conflict has widened U.S. involvement there, according to diplomatic sources.

Both Thai and U.S. officers here said last week that the U.S. appears to have a clear obligation to come to the aid of Thailand if Bangkok's efforts to support the Lon Nol government provoke attack by North Vietnamese and Viet Cong forces.

A high American official said he believes the U.S. would act under such circumstances.

SEATO OBLIGATIONS

Unlike its position in regard to Cambodia itself, the U.S. under the SEATO pact is pledged to defend Thailand in the event it is attacked by Communist aggressors. In the view of both Thai and U.S. diplomatic sources here, that covers any North Vietnamese counterattack which might be touched off by Thai actions in Cambodia.

Thus, the U.S. might be even more deeply committed in the Cambodian conflict than the Administration's Congressional critics have charged.

Thai police forces already have crossed the Cambodian border in actions against the Viet Cong and sources here report that Cambodian government troops have gone over the boundary to seek sanctuary in Thailand. But, thus far, no Thai regular ground forces are believed to have been committed to Cambodia.

Thai Foreign Minister Thanat Khoman said last week that his country would send regular Thai forces into action in Cambodia if the Thai border is threatened or if the overthrow of the Cambodian government appears immiment.

CITES ASSURANCE

Asked whether the U.S. then, would still have an obligation under the SEATO pact to defend Thailand against outside attack, the foreign minister expressed the belief it would.

* * * * *

Thanat is aware, however, that the pertinent article of the SEATO treaty calls for action in accordance "with Constitutional processes," which possibly could bring the Senate into the act.

There has been some question whether there is a requirement for unilateral American action under the treaty.

But former U.S. ambassador to Thailand Graham A. Martin was asked by Sen. Stuart Symington (D-Mo.) during hearings in November on U.S. commitments.

"Do you believe that under the SEATO treaty, we were and are committed to defend Thailand against Communist aggression and that if we did not go to their defense if they were attacked by a Communist country, we would be violating the treaty?"

Martin replied, "Yes, I do." Later, he named North Vietnam as one of the possible aggressors.

[From the Washington Post, Aug. 15, 1970]

THAI AID ACCORD CONFIRMED BY UNITED STATES

(By Murrey Marder)

The State Department confirmed yesterday "tentative" agreement for American military aid to send Cambodia about 5,000 "volunteer" troops recruited or trained in Thailand.

State Department Press Officer Robert J. McCloskey said "the United States has made it clear that we look with favor" on such "Thai-Cambodian cooperation."

"The nature and extent of whatever support we may provide," he said, "will depend in part on arrangements worked out between the Thai and Cambodian governments, including the training and disposition of the troops involved." McCloskey reiterated that "no final overall agreement on U.S. support for troops recruited or trained in Thailand" has yet been reached.

It was under newsmen's questioning that McCloskey acknowledged that what has been decided so far could be described as a "tentative" agreement for U.S. aid for 3,000 Thai troops described as "ethnic Cambodians" and about 2,000 Cambodians now being trained in Thailand. Labeling these troops as Cambodians and "volunteers" enables Thailand to contend it is sending no Royal Thai government forces into Cambodia.

Sen. Frank Church (D-Idaho) charged yesterday that the reported U.S.-aid intentions, if carried out, "would represent the second violation of the Senate-approved Church-Cooper amendment within a week's time."

The "first" violation, said Church, "was the disclosure that direct American air support is now being extended to Cambodian troops."

Officially, the Nixon administration denies it is engaged in direct air support; it claims this is "air interdiction" of Communist forces in Cambodia to prevent them from remounting a challenge to U.S. troops in South Vietnam. Senate critics counter that this is semantic trickery.

After intense debate, the Senate on June 30 passed an amendment to the Foreign Military Sales Act sponsored by Sens. John Sherman Cooper (R-Ky.) and Church. It would forbid retaining any U.S. forces in Cambodia, using U.S. funds for other nations' combat forces in Cambodia or providing U.S. combat air support for Cambodian troops.

Church said yesterday that "each passing week reaffirms the wisdom of the Senate" in prohibiting the use of "mercenaries" in Cambodia, and rejecting opponents' contentions that the Cooper-Church amendment was "moot" because all U.S. troops were being withdrawn from Cambodia by June 30.

He said he was "dismayed" to hear of "another instance of the abuse that flows from unchecked executive power."

The Cooper-Church amendment was tabled by the House on July 9 on a 237-to-153 vote, without debate, and sent to Senate-House conference where the foreign military sales bill now languishes. Administration sources indicate they hope to circumvent the Cooper-Church barrier on money to support third-country forces in Cambodia by drawing on funds for direct U.S. aid to Cambodia.

[From the Washington Star, Aug. 11, 1970]

GROUND ATTACK INTO LAOS WEIGHED

(By Orr Kelly)

Ground operations by non-Americans to cut the Ho Chi Minh Trail in Laos are under serious consideration at the Pentagon, but no decision to recommend such an operation is imminent.

One official who keeps a close watch on the situation in Southeast Asia was asked about periodic reports that a major military operation against the North Vietnamese and Viet Cong in southern Laos and northern Cambodia might be mounted by South Vietnamese, Thai, Cambodian and possibly Laotian troops.

"We are constantly assessing our air effort to stop men and supplies moving down the trail," he said, "and trying to determine if the job might be better done with people on the ground. But nothing along those lines is close to a decision."

Such an operation probably would be a relatively quick in-and-out attack similar to the South Vietnamese penetration deep into northeastern Cambodia in the latter stages of the operation against the sanctuary areas.

The major force in such an operation almost certainly would be contributed by the South Vietnamese.

The Cambodians and the Laotians both have plenty of trouble without going looking for more.

The Thais probably are capable of carrying out such an operation, but as one official said, "the Thais have a very low risk-taking propensity."

American forces are specifically barred from taking part in any such operation on the ground by a congressional restriction which prohibits spending money for ground combat operations in Laos or Thailand.

Although this restriction is frequently overlooked by those who fear an expansion of the American involvement in the war in Southeast Asia, defense officials are very much aware of the limit.

While the restriction would not prohibit the use of South Vietnamese troops in Laos, it would restrict the use of American helicopters to carry them into battle and American artillery to support them.

Even if such an operation across the border into southeastern Laos should be carried out, it likely would be limited in scope and duration because of the lack of American assistance.

"The dollar is the driving force there," one official said, "and there just aren't many dollars for operations not connected with getting Americans out of Vietnam."

This restriction also makes it unlikely that any of our allies in Southeast Asia will embark on any other, more ambitions military operations that have a certain appeal to the Pentagon from a strictly military textbook standpoint.

If forces were available, there probably would be a considerable military advantage to placing a blocking force in the north central section of Cambodia, close to the borders of Thailand, Laos and South Vietnam where two major rivers, the Mekong and the Sekong join.

Although their efforts are hampered by the monsoons, the North Vietnamese are attempting to establish a firm supply line through that area, using the two rivers as the basis for their transportation system.

At this point, the Sekong is the key river, because it flows southwest from the Laotian town of Attopeu, now in North Vietnamese hands. The river joins the Mekong below the impassable Khone Falls.

A sizeable ground force in that area could either block the enemy supply line or force the North Vietnamese to fight in that relatively uninhabited area far from their home bases.

But the likelihood of anything but relatively limited in-and-out attacks in the near future is virtually nil.

[From the Far Eastern Economic Review, July 23, 1970]

CAMBODIA: INTO AN ICEBERG WAR

(By T. D. Allman)

One reason the Cambodian government is increasingly optimistic about its chances for military survival is that the United States and South Vietnam, with US-supplied funds, are on the way to adding approximately three divisions of trained and equipped troops to the National Khmer Armed Forces.

According to well-informed sources here, American and South Vietnamese officers and soldiers have begun training the first elements of two divisions of Cambodian troops at installations in South Vietnam. Another 10,000 or so South Vietnamese troops of Cambodian ancestry are being trained, and will be stationed permanently in Cambodia.

The programme, which began soon after US ground troops left Cambodia on April 29, apparently is being funded with a mixture of US-supplied South Vietnamese funds, American funds originally allocated for South Vietnamese military assistance, and direct US aid to the Cambodian government. The cost of the programme apparently surpasses publicly announced American aid commitments to Cambodia, which so far total only US $9.9 million.

Elements of the first division to be trained in South Vietnam, according to Phnom Penh sources, are being trucked and flown across the border to South Vietnam in company-sized groups. Sources familiar with the training programme leave little doubt that the US is bearing the major financial and training responsibility, even though the programme technically is part of a bilateral South Vietnamese-Cambodian accord: "The American in charge is on his fourth tour in Vietnam," said one of the sources. "In Korea one time, he killed 29 communists with a shovel. Those Khmers may be going in gentle Buddhists but they are coming out tigers."

According to other sources, US personnel already have trained several battalions which have moved into Cambodia recently. They are Khmer Krom units—forces made up of members of South Vietnam's Cambodian minority. According to these sources, Khmer Krom troops in Cambodia soon will total about 10,000. About 4,000 belong to the American-trained and financed Mike-force, which long served as an elite mercenary force in South Vietnam. The rest are composed of Khmer Krom troops drawn from regular South Vietnamese units, given intensive training and sent to Cambodia.

Two of these newly-formed battalions arrived there several weeks ago aboard a convoy of US donated transport trucks. According to one source more Khmer Krom are coming. They will continue to be paid with US funds sent through South Vietnamese channels.

The Khmer Krom soldiers are equipped with American weapons, and have been accompanied by two US-paid Australian mercenary officers. US embassy sources here, asked to comment on the financing of the Khmer Krom units, said, they had "no knowledge" that they were being paid by Washington. But Khmer Krom officers say that "we are being paid through US aid."

The mass training programme for Cambodian soldiers was announced here last week. According to official sources, an initial 10,000 troops will be trained, and government sources say they will be followed by an equal number of trainees before the end of the year.

A decline in the level of communist military activity, a protective ring of US air strikes and South Vietnamese ground operations, and the psychological effect of what Cambodian officials here regard as an unequivocal American commitment to the survival of their regime, have combined to produce a semblance of euphoria in this isolated capital.

Only three weeks ago, when communist troops cut most of Phom Penh's overland links with the outside world, imminent communist attack was expected here. Now, Cambodian Premier Lon Nol feels optimistic enough to predict "victory in the near future."

The optimism reflects significant evolution in the Cambodian situation. Fluidity has given way to a more stabilised situation in which the communists control most of the less densely populated areas, the government, with foreign help, holds the capital and several of the major provincial capitals, and a less dramatic but very debilitating struggle continues in the in-between areas.

The US air force has begun to fly around-the-clock sorties, in Cambodia, not only against enemy sanctuaries but in tactical support of the Cambodian forces. Evaluations of the Cambodian situation have adjusted to the realities of war. What three months ago would have been considered a major communist attack is now interpreted as a government success if it does not result in a further dramatic erosion of the situation. By absolute standards, communist attack have not declined greatly.

Many sources here believe that the partial lull is the result of a North Vietnamese decision to continue to give priority to the war in South Vietnam. "A lot was destroyed in the sanctuaries," said one intelligence source. "But a lot is still out there. We assume the Vietcong now are infiltrating back in to retrieve their caches and re-establish bases near the South Vietnamese border."

If the Cambodian government's optimism that the communists have been checked in Cambodia is therefore unfounded, its confidence in a fundamental American commitment to their cause seems increasingly justified.

"From the very beginning," commented one neutralist ambassador in Phnom Penh last week, "Lon Nol and Sirik Matak were absolutely confident that the United States would rescue them. They seem to have been completely right."

[From the Far Eastern Economic Review, July 23, 1970]

SOUTH VIETNAM: ARVN-HALF

SAIGON.—Some clutched the booty of war. Others played nervously with their ancient weapons. Some, too sick or tired to stand, lay on the parade ground in the hot sun. And others dressed in the tattered remnants of uniforms three decades old, squinted at the neatly-dressed throng of South Vietnamese soldiers who had come to stare at the survivors of the Cambodian Army's Northeast Regional Command.

"This is just like 1964," said one Saigon officer who could not believe his eyes. In front of him were several Khmer soldiers wearing aluminum cooking pots as helmets, brightly-colored woolen scarves securing the pots to their swarthy heads. A nine-year-old boy with double bandoliers of machine gun ammunition across his chest stood at attention, holding a machine gun. NCOs wearing muddy shower shoes and French battle jackets from the other Indochina War barked instructions in guttural Khmer. And an unidentified Cambodian major, resplendent in new olive fatigues and American jungle combat boots, dashed fowl-like around, spluttering incoherent French, English and Vietnamese.

But looking at what was left of Cambodia's 54th Battalion it was difficult to accept the Vietnamese officer's comment that the Khmers looked like ARVN back in its blackest days. The Cambodians looked far worse.

And now, ostensibly at least, it was up to ARVN to straighten up these troops, dress them in modern army uniforms, and teach them contemporary military tactics. After five weeks of "refresher" training at Lam Son National Training Centre in the mountains near Nha Trang they will be sent back to Cambodia to replace some of the 18,000 South Vietnamese troops fighting across the border and Cambodianise the war.

Yet despite Saigon's boast that it will be the Vietnamese who will be training the 54th—and four other battalions numbering 577 men each evacuated from Ratanakiri last month by ARVN—it will be the Americans who will be providing the cash and the real meat of the advice and refitting. Washington has not acknowledged this, of course, but then, as it does in Laos, it has its reasons.

Training began simultaneously at Lam Son for some of the 10,000 Cambodian Army recruits scheduled to receive instruction in South Vietnam. Although on the surface it looked as if the ARVN sergeants rounding up the green young men from Phnom Penh were firmly in charge the US was footing the bill. Moreover the large American advisory teams at Lam Son and at two other camps are also actively involved in their training.

Plans for the scheme were drawn up by the Americans at the Military Assistance Command in Saigon and the training began with the South Vietnamese acting as the perfect front for what is in realty a new American investment, and involvement, in the Indochina War.

The United States first showed interest in training Cambodian troops in May when the Lon Nol government, recognising that it could never train, equip and arm enough men in time to meet attacks from it enemies, appealed to Washintgon again for military aid.

The United States agreed to provide small arms, ammunition, trucks, high military equipment, and serving for Cambodian Air Force planes as part of a $7 million publicly-acknowledged package deal. The plan to train Phnom Penh's troops also was included in the agreement but because it was thought this might be too large a pill for the American public to swallow it was decided to "allow" the South Vietnamese to do the training, a source close to the project said.

When the five battalions, plus about 4,000 dependents were snatched out of Bo Kheo and Labansiek after fighting off the North Vietnamese for several weeks (some of the battalions had lost as many as 200 men), it was also decided to extend the training agreement and for the US to support them too. Transported in US Air Force planes they will undergo extensive schooling and rearming under the training extension.

How much the training of the recruits and the troops is costing the American taxpayer is a closely guarded secret. But more important is the fact that the US agreed to do it secretly, using ARVN as a front, to further disguise its growing involvement in the Cambodian fighting.

Said one American officer, concerned about possible over-expansion of the U.S. military

effort in Indochina: "I am afraid we are on the road to involvement at the worst in another Vietnam, at the best another Laos. Despite what the president says there is a tacit agreement here that we are not going to allow Cambodia to go under. And we are already involved in that. You know how we are 'now involved' militarily in Laos. That's the way we are nearly 'not involved' in Cambodia."

The eight weeks instruction adds up to a crash course. ARVN recruits get twice that and even ARVN's training is considered hurried by America standards. They will drill with old World War II U.S. carbines and light machineguns in company-sized arms (about 100 men each) and then will be shipped back in Cambodia as complete companies with their carbines. At the moment, the Americans are concerned about the Khmers having to face up to the North Vietnamese fully automatic AK-47s with their outdated American equipment. "The feeling here is that they should all get M-16s or at least captured AKs," said one adviser. "We are trying to do something about it."

SOUTHERN-FRIED CHICKEN

South Vietnam three months ago sent 40,000 of its American-trained, American-equipped and American-paid troops hurtling into Cambodia in a series of invasions under the code name "Operation Total Victory". The South Vietnamese forces may have persuaded many Cambodians that the Vietcong were the lesser of two evils, as they tore up the previously placid Cambodian countryside with orgies of firepower which even their American advisers found impressive.

South Vietnamese senior officers, notably General Do Cao Tri, a former ambassador to Taiwan, made pronouncements reminiscent of early American statements on Vietnam. A score of South Vietnamese military planners noisily took over the general headquarters here, in the process displacing a number of Cambodian counterparts—including the prime minister's brother—from their offices. Initial tension between the Cambodians and their newfound South Vietnamese friends was exacerbated by Cambodian massacres of Vietnamese civilians and the South Vietnamese habit of looting every village they liberated on behalf of the Lon Nol government.

Now all that is changed, officially at least. Like the Americans, the South Vietnamese are engaged in the difficult business of doing a great deal for the Cambodians while trying to appear to be doing very little.

In Phnom Penh, the South Vietnamese low profile is most evident.

The embassy and residence occupy two small villas. Charge d'Affaires Tran Van Phuoc keeps to himself—when not engaged in frequent conferences on policy matters with Lon Noi and Vice Premier Sirik Matak.

Phuoc, indeed, was specifically chosen to blend into the Phnom Penh scene. He was born in 1918 in the south Cambodia provincial capital of Takeo, attended Phnom Penh's exclusive Lycee Sisowath, and speaks Cambodian so fluently that most of his meetings with Cambodian officials are conducted in that language.

The South Vietnamese officer corps, which works on a counterpart basis with the Cambodian general staff, also affects a low posture. "We are simply here for liaison," insists a South Vietnamese colonel. "If you need any information you should go through Saigon. Or better yet," he grinned, "contact the Cambodians. They are in charge here."

In fact, the South Vietnamese army corps plays as central a role in Cambodia as similarly placed American officers do in Saigon. They have the final say on all Cambodian military plans, provide transport, logistics and munitions for the Cambodian forces, and on many occasions have overruled the entire Cambodian general staff on matters of strategy and tactics.

But no South Vietnamese flag files at the South Vietnamese military headquarters in Phnom Penh, and no South Vietnamese soldiers or officers can enter the capital without specific permission. "Even General Tri and General Dzu [the two South Vietnamese generals responsible for Saigon operations in Cambodia] must have permission to come here," says a South Vietnamese source, "and they aren't going to get it very often. They've also been told to give up press conferences on Cambodian soil." By whom? "President Thieu has taken a personal interest in this affair."

The low profile extends, less strongly, into the Cambodian countryside. In principle, South Vietnamese troops no longer occupy the territory they secure for the Cambodian authorities. They have orders to stay away from densely populated areas and to turn over to Cambodian troops towns they have taken from the communists.

The South Vietnamese involvement in Cambodia, despite the low profile, amounts to a relationship similar to that of a power over a protectorate. As of last week:

Khmer Krom troops of South Vietnamese citizenship assured the defense of Phnom Penh, and occupied surrounding villages.

12,000 to 40,000 South Vietnamese troops, depending on the needs of the moment, assumed the major responsibility for patrolling most of the countyrside which remains nominally under the Cambodia government's control. Every major battle in Cambodia during the past two months has pitted South Vietnamese troops against the Vietcong and North Vietnamese. The Cambodians have not won a major battle since the South Vietnamese expeditionary force arrived.

Several thousand South Vietnamese logistics and staff personnel provided all logistics and most planning for the Cambodia forces. The logistics range from flying in guns and ammunition in transport planes to Phnom Penh to providing helicopters and advisers for Cambodian assault missions.

South Vietnamese helicopter gunships and artillery provided fire support for Cambodian troops on a regular basis.

An unknown number of South Vietnamese troops were moved into the border sanctuaries to continue the task of replacing US troops.

South Vietnam, serving as a funnel for US funds, was providing an undisclosed amount of material and direct financial support for the Cambodian government, according to sources here.

The South Vietnamese presence in Cambodia, therefore, despite its low profile, has become the major Cambodian defense. "This is only temporary," said one South Vietnamese commander, who spoke with an American accent picked up in the US. "It's their war." But the Cambodians, in any real sense of the word, have stopped fighting their own war. A typical episode of the Cambodian war occurred just north of Phnom Penh recently.

An air and water-borne South Vietnamese force of 5,000 men launched a search-and-destroy operation in a density populated area on the peninsula formed by the Tonle Sap and the Mekong River. Cambodian villagers told reporters that the Vietcong had evacuated the area several days before. But there was no Cambodian liaison officer present, let alone any Cambodian troops. The soldiers spread through the countryside nonetheless and from the bank of the Mekong, smoke could be seen rising from the burning villages. A South Vietnamese artillery battery at 30-second interval fired random "harassment and interdiction" fire into the Cambodian countryside, despite the fact that there was no longer anyone there to harass or interdict Cambodian villagers.

A dozen South Vietnamese river craft were spread along the river front; eight American-provided helicopters were parked in a nearby field.

A South Vietnamese helicopter pilot sat in the shade with a basket of chickens at his side. He dressed and talked like an American.

"I didn't steal this chicken," he said anticipating the question. "I paid for it." He then went on to explain the search-and-destroy action in the Texas accent he had learned at flight school in the US. "So you see," he concluded, "this is just like an American operation."

Indeed, the South Vietnamese presence in Cambodia, complete with low profile, an excess of firepower and a built-in callousness toward the villagers, seems all too surely to resemble the first days of the American involvement in South Vietnam.

[From the Washington Star, July 25, 1970]

REDS WARN U.S. ON LAOS

(By Henry S. Bradsher)

HONG KONG.—Lao Communists have accused the United States of "preparing a dangerous military adventure" with U.S., South Vietnamese, Thai and Lao troops in the panhandle of southern Laos.

In a small-scale forerunner of this, the "Lao Patriotic Front" has charged South Vietnamese and Thai troops are already fighting alongside Lao government troops in the area.

The accusation follow reports in Saigon that Vietnamese army commanders are eager to obtain political permission for a major strike into southern Laos.

AIM HO CHI MINH TRAIL

The goal would be the cutting of the complex of routes from North Vietnam through the panhandle which are collectively known as the Ho Chi Minh Trail.

If they could be cut west of the northern part of South Vietnam the benefits of cutting off Communist supplies now being claimed for the southern part of the country as a result of attacks on Cambodian sanctuaries might be obtained for almost all of South Vietnam and for Cambodia, too.

It is, however, a very big "if."

The ruggedness of the terrain and the probable determination of Hanoi not to lose overland access to South Vietnam and Cambodia could turn any attempt to pinch off the trail in Laos into a major new theater of indefinite warfare.

PERIL TO NEUTRALITY

A major military move into Laos, as distinct from the current semi-secret operations there of U.S., Thai and possibly also—as the Communists charge—South Vietnamese force would create political problems.

It would endanger the grayed remains of Prince Souvanna Phouma's claim to Neutrality for Laos, as established in theory by the 1962 Geneva agreements.

In an apparent effort to bolster the appearances of neutrality and thus try to stave off a military move into the panhandle, Lao Communists have been making new efforts to open talks with the prince's government in Vientiane.

Prince Souphanouvong, leader of the Pathet Lao which forms the Communist core of the "Lao Patriotic Front," has announced that he is sending a messenger to his half-brother Souvanna Phouma.

SEEKS BOMB HALT

The messenger also will seek to arrange for the two sides to meet and discuss "the cessation of U.S. bombing so as to ensure safety" for broader political talks.

Souvanna rejected in March a proposal for political talks which was tied to his telling the Americans to stop bombing. His

military position in northern Laos depends upon U.S. airpower, and the U.S. position in Vietnam deepnds upon bombing of the trial in the panhandle.

Souphanouvong, who is assumed by Vientiane observers to be under Hanoi's influence, is believed in Vientiane to be more concerned with getting the panhandle bombing stopped than in advancing positions in the northern Laos of his North Vietnamese-led forces.

His sending a messenger now suggests eagerness to get talks started despite Souvanna's position.

WIDE PLAN POSSIBLE

That he is acting as part of a wider plan was suggested by an announcement that the International Control Commission is prepared to police any political arrangements which can be reached.

This was announced in the name of all three ICC members. Canada has long been willing, but Poland has shown such willingness only when it get the word from Hanoi via Moscow. The ICC chairman, India, also has sought Soviet clearance before doing anything.

This political maneuvering comes, as the Loa Communist accusations indicated, at a time of intensifying military and diplomatic activities.

The "Lao Patriotic Front" issued its statement in Sam Neua, the Pathet Lao capital, Monday and it was broadcast in sections concluding Thursday. It marked the eighth anniversary of the 1962 Geneva agreements.

LENGTHY SUMMARY

The statement contained a lengthy summary of U.S. activities in Laos which it contended violated the agreements. The summary was called from American congressional reports, press reports and other sources.

It said that when U.S. troops went into Cambodia, many Thai army battalions "were sent by the United States." To the Lao panhandle. At the same time, "the United States ordered the Saigon puppet army to launch operations in southern Laos."

South Vietnamese commando units are operating in the panhandle, the statement said. It added, "On May 19, a U.S. Defense department spokesman said: 'United States advisers are authorized to accompany South Vietnamese forces' during operation in Laos."

"The joint operations by Lao and Thai troops and the intrusions of Saigon puppet troops into southern Laos show that the United States is preparing a dangerous military adventure in this area in the face of new developments in Cambodia," the statement said.

FOUR-PARTY AXIS

It referred to "busy diplomatic activities (which) have taken place among Vietiane, Bangkok and Phnom Penh" lately, with Saigon also involved.

On May 28, it said, the Lao army commander secretly visited Bangkok. On June 8, the head of Lao military intelligence and others visited Phnom Penh, it said, and on June 15 the head of Cambodian intelligence was in Vientiane.

"Thus, a four-party axis among the anti-Indochina Indochinese and the anti-Asia Asians has been formed to put into practice the 'Nixon Doctrine,'" the statement said.

In this situation, it added, "the United States and the ultra-reactionaries in Laos are pressing Souvanna Phouma to 'reshuffle his cabinet' in Vientiane. They have threatened to stage a coup d'etat in order to cow Souvanna Phouma into implementing their plans strictly and actively."

It is this danger of Souvanna's being pushed into agreeinng that South Vietnamese and Thai troops could openly enter his country that Souphanouvong is believed to want to head off by his new attempt to get talks started.

[From the Washington Star, May 11, 1970]

U.S. GROUND ATTACK URGED BY LAOTIANS

(By Tammy Arbuckle)

PAK SE, LAOS.—Laotian rightest leaders here said the United States should hit the Ho Chi Minh trail in south Laos at the same time it is attacking Cambodian sanctuaries.

They said as long as the Communist Vietnamese are using the Ho Chi Minh trail in eastern Laos to send reinforcements and material to Cambodia and South Vietnam, the U.S. effort in Cambodia cannot be fully effective.

The Lao military criticized President Nixon for setting time and territorial limits on American actions in Cambodia. "The North Vietnamese will withdraw to the west then return and rebuild the base areas when the Americans leave," a Lao general said.

Laotians said they expect the Communists to become active in northern Cambodia and to try and build up the Red Cambodian indigenous movement in these areas, supplied from new sanctuaries in Laos, Cambodia border areas.

The Lao military reaction was sparked by enemy moves in military region IV, the southern half of the Laos panhandle. Pak Se is military region IV headquarters.

Heavy fighting is going on now at Phou Luan, the highest point of the rice-rich Bolovens Plateau, 30 miles north of the Lao-Cambodian border.

"If they get the Bolovens they can hide and feed five divisions," the south Laos commander, Gen. Bounphone Mahaparak, said. North Vietnamese forces are grouping west of Saravane, which is the best access route to the plateau.

The Laos lost the province capital of Attopeu last month, opening the Sekhong River Route into Cambodia.

Current U.S. military help to Laos in this area is confined to Army advisers, Air Force forward air controllers, air logistics and Central Intelligence Agency operatives who lead tribal guerrillas from small airstrips on the eastern edge of the Bolovens Plateau.

[From the New York Times, May 16, 1970]

LAOTIAN AIDE SEES NEED FOR SAIGON ARMY'S HELP

VIENTIANE, LAOS, May 15.—A Laotian Defense Ministry spokesman expressed today the growing concern of the military command over the situation in southern Laos and suggested that, from a military point of view, it was necessary that South Vietnamese forces intervene to help "clean up" Laos.

The spokesman, Col. Thong Phanh Knosky, said during a news conference that the North Vietnamese on May 9 had seized the large village of Tang Vay, 57 miles from the town of Savanaket, and today were encircling the Nong Boua Government post 19 miles from Tang Vay. He suggested that the North Vietnamese wanted to open new communications links in Laos to increase their supplies from North Vietnam to South Vietnam and Cambodia.

"From a strictly military point of view a South Vietnamese intervention to cut the Ho Chi Minh trail would be a necessity," the colonel said.

The North Vietnamese were today increasing their threat to the city of Saravane northeast of the Bolovens Plateau in southern Laos where 2,400 civilians have been evacuated in the last few days, Colonel Knosky said.

[From the Washington Star, June 6, 1970]

KY URGES ALLIES TO KEEP REDS OUT OF SANCTUARIES

SAIGON.—South Vietnamese Vice President Nguyen Cao Ky returned here today from a two-day official visit to Cambodia, warning that the allies' Cambodian operation could become a "failure in the future" if the enemy is allowed to return to its former border sanctuaries.

"If we are just satisfied with the results we have gotten until now and we stop our move and go back and sleep and discuss politics, then the enemy will come back in a few months," Ky told newsmen.

"If we do nothing and then the enemy comes back, the success of today will be the failure in the future," he said after his arrival at Tan Son Nhut airport.

He said the future intentions of the allies were more important than the North Vietnamese and Viet Cong ability to fight.

The vice president, met at the airport by U.S. Ambassador Ellsworth Bunker and other ranking U.S. and South Vietnamese officials, conferred with Cambodian Premier Lon Nol during his Phnom Penh visit.

Ky said he had gone to Cambodia to discuss closer cooperation between the Cambodian and South Vietnamese armed forces. He said he was "very pleased" with the results of the talks.

But Ky, who has stated there is no deadline for the withdrawal of South Vietnamese troops from Cambodia, said he could not elaborate on the military aspects of his Cambodian talks. The United States plans to withdraw its forces from Cambodia by the end of this month.

Ky announced that South Vietnam plans to train 4,000 Cambodian residents of South Vietnam and send them to buttress the Cambodian army.

"What we are doing now is to protect our common interest," Ky said. "They've helped us, they kicked Sihanouk out and now in return we are helping them."

In response to a newsman's question, the vice president said that if the Laotian government asks for assistance in fighting Communist forces, "we would do our maximum to help them." But he did not elaborate.

Ky said he expected "no real hard problems in the future," concerning Cambodia's Vietnamese residents, thousands of whom were placed in detention or refugee camps following the Cambodian coup that ousted Prince Norodom Sihanouk as chief of state in March.

The vice president said he had negotiated the abolition of the afternoon curfew that had been imposed on Vietnamese in Phnom Penh, Cambodia's capital.

Vietnamese in "remote and insecure provinces" will be moved into Phnom Penh until security is restored, Ky said. He added that the South Vietnamese government would repatriate those who wished to leave Cambodia.

[From the Washington Post, May 21, 1970]

KY RIDICULES JOINT PULLOUT TALK AS SILLY

(By Robert G. Kaiser)

SAIGON, May 21.—Vice President Nguyen Cao Ky this morning ridiculed the notion that South Vietnamese troops would withdraw from Cambodia when American forces do as "a silly argument of silly people."

Ky declared that "we will not let anybody tie our hands" to prevent continued prosecution by South Vietnam of the war in Cambodia. He said the South Vietnamese forces had the capabilities to fight on the Cambodian front and in Vietnam simultaneously.

Ky's remarks, delivered at graduation ceremonies of the Vietnamese War College in Saigon, were the toughest yet heard from a senior Vietnamese official on the increasingly sensitive subject of South Vietnamese operations in Cambodia after June 30.

It appears that the South Vietnamese government is determined to continue those operations after President Nixon's deadline for the withdrawal of American troops from the Cambodian front.

NIXON'S STATEMENT

[When President Nixon announced May 9 that "all Americans of all kinds, including advisers, will be out of Cambodia by the end of June," he was asked whether the South

Vietnamese would abide by the same deadline. He answered: "No, they do not. I would expect that the South Vietnamese would come out approximately at the same time that we do because when we come out, our logistical support and air support will also come out with them."

[Last Saturday, White House officials in Key Biscayne said they had every reason to believe the South Vietnamese forces would withdraw from Cambodia on approximately the same timetable as U.S. forces.]

Such determination to flout the wishes of the United States has been seen here before, but this time it appears to be more serious than previously.

* * * * *

Whether President Thieu would use such harsh language as Ky's "silly people" remark in this context is doubtful. But the Thieu-Ky relationship sometimes resembles the Nixon-Agnew relationship: the vice president here, as in the United States often does the President's tough talking, though Thieu's language on the issue has been more restrained, he has also said there is "no deadline" for his forces in Cambodia.

[Wednesday, Lt. Gen. Do Cao Tri, commander of South Vietnamese troops operating east of the Mekong River in Cambodia, was asked about reports from Washington that a South Vietnamese withdrawal would be linked with the U.S. pullout, according to news dispatches.

["I have not heard that from the Vietnamese side," he said, adding that the Saigon troops "are not under any restrictions, like U.S. forces, unless President Thieu orders us back to our territory."

[Asked how long South Vietnamese troops might remain in Cambodia, Tri replied: "That depends on the enemy. * * *"

[From the New York Times, May 9, 1970]

THIEU ASSERTS LON NOL AGREES ON TROOPS

(By Terence Smith)

SAIGON, SOUTH VIETNAM, May 8.—President Nguyen Van Thieu said tonight that he and Premier Lon Nol of Cambodia had worked out "agreements in principle" for South Vietnamese troops to conduct continuing military operations in eastern Cambodia.

In addition, Mr. Thieu said the two Governments had discussed the feasibility of a South Vietnamese naval blockade of the Cambodian coast line and principal port—Kompong Son, formerly called Sihanoukville—to prevent the North Vietnamese from bringing in military supplies by sea.

"Our navy is capable of guarding the whole coast," Mr. Thieu said. "We have the ships and we think it would be a good idea."

Mr. Thieu made it clear that South Vietnamese troops would not be bound by the restrictions President Nixon has placed on the United States forces operating in Cambodia.

Mr. Nixon promised Congressional leaders last Tuesday that American troops would withdraw from Cambodia by the end of June and would penetrate no deeper than about 20 miles without Congressional approval.

Mr. Thieu said: "We have no deadline, no limits. We will move on intelligence. When there is a target, we will strike it."

Mr. Thieu discussed the Cambodian situation and other topics at a small dinner at the Presidential Palace. Eight foreign correspondents—seven Americans and one European—sat with him at a table under the elm trees on the palace grounds while the President talked for four hours about the situation in Indochina.

Relaxed and expansive in an open-necked blue sportshirt, Mr. Thieu said he was in daily contact with the new Cambodian Premier through the South Vietnamese delegation established last week in Pnompenh. The two countries have had no formal diplomatic relations since 1963.

"I have a friend," he said, laughing, when he was asked about his earlier contacts with the Cambodian regime. "We keep in touch."

The President said he and General Lon Nol had come to their "agreement in principle" about South Vietnamese operations in eastern Cambodia two or three days before President Nixon announced on April 30 that United States troops would cross the Cambodian border to clear out North Vietnamese and Vietcong sanctuaries.

He said Premier Lon Nol had requested support from South Vietnamese forces for the general defense of Cambodia east of the Mekong River.

In the short term, Mr. Thieu said, the agreement would involve direct South Vietnamese military assistance and probably the naval blockade. He said he had already supplied some 4,000 American-trained ethnic Cambodian troops from the South Vietnamese forces, but he expected that more would have to be sent to Pnompenh to bolster the position of the Lon Nol Government.

In the long term, he said, the South Vietnamese would take on the job of training the Cambodian Army, which Mr. Thieu described as weak and poorly equipped. "But they have the manpower," he said, "and we can provide the advice."

Mr. Thieu said he believed that the next six months would be critical for the war as well as for political leaders.

"If Lon Nol and Cambodia stand for the next six months," he said, "then I think Mr. Nixon will win the Congressional elections this year and be re-elected in 1972, because then the operations will have proven a success."

"Also," he said, "if we keep up the pressure on the Communists for the next six months, then I think they will have no choice but to negotiate a settlement or fade away."

[From the Christian Science Monitor
Aug. 3, 1970]

OPPOSITION SEEN ON EFFORTS TO WIDEN VIET WAR—JOINT CHIEFS OF STAFF PROPOSALS SAID TO OFFER THREE OPTIONS

(By George W. Ashworth)

WASHINGTON.—The Joint Chiefs of Staff are proposing a significant expansion of the allied war effort in Indo-China.

According to well-informed sources, papers prepared for the chiefs by the joint staff and now being circulated support:

The coordinated use of Thai and South Vietnamese forces to move against enemy troops in northern Cambodia and southern Laos.

Use of allied troops for operations within the demilitarized zone that separates North and South Vietnam.

The proposals already have run into opposition within the Pentagon. According to a dictate of Secretary of Defense Melvin R. Laird, all proposals of the joint chiefs concerning Indo-China must be given a thorough review by his civilian staff before they reach the secretary for final consideration.

Under the new review system, instituted by Mr. Laird after the decision was made in April to launch allied attacks inside Cambodia, defense review of proposals would be formally finished before reaching the White House.

According to sources, however, the White House already has received at least informal indications of what the chiefs now are seeking.

NEW CHAIRMAN FUNCTIONING

The proposals are among the first major papers prepared under the new chairmanship of Adm. Thomas H. Moorer, who replaced retired Gen. Earle G. Wheeler in early July as chairman of the joint chiefs.

Some officials believe the proposals may reflect the beginnings of a somewhat harder line on major defense issues under the new chairman, who is deeply interested in the war.

According to sources, the proposals are essentially grounded in the belief that the allied effort in Cambodia caused the enemy forces deep distress and that much could be gained by applying continued pressure.

There is feeling among many military men that continued hitting at the enemy, wherever concentrated, could keep Hanoi off-balance, thus saving American lives and preventing buildups that could threaten allied forces in the several theaters of the war zone.

The proposals pertaining to Laos and Cambodia would call for substantial United States logistical backing and the use of American airpower to bolster Thailand and Vietnamese forces on the ground.

According to sources, Admiral Moorer told the defense civilian hierarchy that the Thais and Vietnamese could fight with American support as proposed with no necessity to increase war expenditures during the current fiscal year.

That point is heatedly disputed by officials in other Pentagon offices. Certainly it would be harder now than before to take such actions since the budgetary allowances for the war have been cut drastically.

Expenditures for the war peaked at about $29 billion annually in 1968. They began falling as American disengagement got under way in 1969. Current estimates put the war expenditures at about half of the peak level.

As the administration budget is predicated on fairly steady drops in war costs, it might be difficult to finance anything that would keep expenditures level over a long span, much less rising.

The chiefs present three options in the paper on Laos and Cambodia now being circulated.

The first is to continue doing what is now being done, i.e. support the Vietnamese with limited activities in the sanctuary areas, but not deeper into Cambodian territory now being occupied by the enemy.

The second calls for use of Thai and Cambodian forces in portions of northern Cambodia and southern Laos now occupied by North Vietnamese and their allies.

The third option is the same as the second, with the addition of U.S. ground forces.

According to administration sources who have seen the paper, the third option is discounted, largely because of congressional feelings toward use of U.S. forces outside Vietnam and because of the present mood of the public.

The first option; essentially what is being done now, is described, as one source put it, "with a lot of bad words" that make it seem less attractive.

That leaves the middle-road option, and that is what the chiefs now are pushing.

Opposition here largely revolves around a deeply held belief that such activities as the chiefs now are proposing increase instability and spread allied forces thinly without any guarantees of success.

While there is little doubt that the Thais and the Vietnamese could batter the opposition—given heavy American help—the opposition response would be uncertain, as would results, and dangers could be posed for Vietnamization, which many officials continue to view as the Indo-Chinese concern of greatest magnitude at this point.

DEEP CONCERN EVIDENCED

While the views of Gen. Creighton W. Abrams are not known on these new proposals, he has evidenced deep concerns in the past, particularly toward the close of the allied operations in Cambodia, lest Vietnamese and American attentions be allowed to wander too far from the business at hand in Vietnam.

The administration is steadily becoming more deeply involved in Cambodian military affairs, but the President and his closest advisers apparently still adhere to the view that the United States should help Cambodia as it can, short of U.S. troop involvement. That, they believe, must not come.

If the North Vietnamese are indeed preparing to take over Phnom Penh and destroy the Lon Nol government, then disruptive attacks against them in present gathering points and strongholds should disrupt that. But few believe the North Vietnamese are willing now to indulge in such a risky venture. If this is the case, then allied activities could not prevent anything that is not going to happen anyway.

The proposals relating to the DMZ are quite another matter. The chiefs would be interested in receiving approval for allied operations inside the DMZ.

This will be opposed by those who see no threat justifying such a change and would not like to complicate the situation at the DMZ or cause deterioration of the situation created by the "understandings" that preceded the bombing halt over the north.

RESUMPTION OF DEBATE

Mr. FULBRIGHT. This quotation is from one of the most recent articles:

Allied sources acknowledged yesterday that clandestine reconnaissance units operating in Laos may be the target of the latest Communist charges of war escalation. . . .

Washington said Saigon sources concede that their military planners are urgently pressing for sizable border crossings into Laos. But these sources say both capitals still regard such operations as too hazardous in domestic and international political terms for the Nixon administration to risk at this time. . . .

From Saigon the Associated Press reported that despite official denials there, sources said most of the reconnaissance patrols going into Laos "are landed by U.S. helicopters along the 200-mile Ho Chi Minh trail in the lower panhandle of Laos to spot targets for American bombers."

All these articles raise this question, and suggest that preparations for such ventures are being made and that the expectation is that the Vietnamese forces will move into Laos.

So I submit that if we meant what we said when we adopted the Cooper-Church amendment and the other amendments which were adopted last year, this amendment is entirely consistent with that action.

I am very much afraid that if we do not adopt this amendment, with the changed language in the existing law, even in spite of the fact that the committee in its report said this is not intended to finance Vietnamese forces, the House probably would not agree with that, and that the administration, the executive department, in connection with preparations being made, would choose to say that the legislative record is fuzzy and not precise and they should go ahead, because the law, it seems to me, could easily be construed to authorize it.

So I do hope that the Senate will accept this further step, consistent with what we did in the previous steps, to restrict our involvement in the war in Cambodia and in Laos.

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

Mr. FULBRIGHT. I yield.

Mr. GOLDWATER. Mr. President, I am very glad that the distinguished Senator from Arkansas and the distinguished Senator from Mississippi have decided that we would not vote on this matter tonight, because I think we have to give it some thought.

I understand perfectly what the Senator's amendment intends to do. At the outset, I have some reservations about two points: First, whether this would involve the United States in the governmental decisions of another country; and, second, if we decide that this is all right, how we control this money when we give it in a lump sum. We do not know which dollar is being used for which purpose.

These are the two questions that come immediately to my mind, and I appreciate the time to think them over tonight. I certainly understand the Senator's concern, and I might even reach the point of agreeing with him in that concern. But I would like to hear the amendment debated a little further, so that we can understand what we do, for example, if, under this lump sum of money that we appropriate for Southeast Asian use, in separating the dollars that might be used by the South Vietnamese for sending South Vietnamese forces into Laos from the money they use to send troops into Cambodia, or use to fight their own portion of the war.

I would hope that during the course of the debate tomorrow, the distinguished chairman of the Committee on Foreign Relations would give us his thoughts on those two subjects.

The question of our involvement in telling another government what to do does not present such a big problem with the Senator from Arizona as how we control the funds when we know they are not identified. We have just gone through an amendment in which we discussed this, in which the funds are asked of us in a lump sum. No report is made that says that one, two, three, four, and five, "We spent the money in these particular ways."

I hope that some time during the debate we can get some thought as to how this can be controlled, so that if the amendment is adopted, it will be effective and not just be another exercise in semantics on the floor of the Senate that the State Department could get around easily.

Those are my concerns, and I look forward to tomorrow and an opportunity to hear more about it.

Mr. FULBRIGHT. I appreciate the Senator's comments, and I would not minimize the difficulty in sustaining the kind of relationship we have with the government of South Vietnam.

As a matter of fact, practically all their funds do come from us, directly or indirectly; and if we wish to encourage them to invade Laos or Cambodia with their forces, of course they will do it. If we wish to discourage them, I think we can have great effect upon them.

What bothers me most of all is that I think the idea has grown up in Saigon that the United States is their captives. As evidenced, I submit the statement made by the Senator from South Carolina that they are helping us. This is an attitude of many people—that the Saigon government is helping us. It is our war, seems to be the view, and they are coming in very graciously to help us—that is if we pay them to help.

However, not too long ago, most Americans were under the impression that we were helping them. But we get these different points of view. If I understand the Senator from South Carolina, he really believes that this is primarily our fight, because he views this fight as one directed against a worldwide international Communist conspiracy and he believes it is our responsibility to fight that conspiracy, wherever it is. Apparently it is purely incidental that this particular fight is in South Vietnam, but primarily it is our fight, and the Vietnamese and others have been gracious enough, with enough pay, to help us. I think that is the way he views it, and I am sure other people view it that way, also. It all depends on the way one looks at these fights, whether they are taking place in South Vietnam or in the Middle East or in Berlin.

Of course, I do not agree with his analysis, and I do not believe that was the justification that President Johnson originally gave us—whose basis for intervention in Vietnam changed almost daily, according to the criticism.

It reminds me a little of the ABM. About every 2 weeks there is a different justification for it. Secretary Rusk and President Johnson had the same flexibility of justification as to why we were fighting in Vietnam.

I say to the Senator that I appreciate the difficulty, but I do think that, in view of our investment—the cost to this country, and so forth—we, the Congress and the Nation, ought to have something to say about where our money is used and whether or not our money should be used to finance the Vietnamese in Laos or Cambodia.

The Armed Services Committee, itself, has changed this language. I pointed out that they have changed the existing language "would not appear to authorize." Now why did the committee change the language? I think it was to make way for attacks on the sanctuary, just the sanctuary. I say to the Senator from Mississippi, is that not what he——

Mr. STENNIS. If the Senator would yield to me now——

Mr. FULBRIGHT. Yes; I yield.

Mr. STENNIS. I appreciate that, and I would like to get the floor to give a chronological development on that point.

Mr. FULBRIGHT. I am perfectly willing to yield the floor bcause I think it is that change in language, together with the committee report, which precipitated the amendment. I immediately began to wonder what was the purpose. All I am trying to do is to implement what the committee said was its intention. I should like it to be put in the law, because I have seen often how these interpretations in committee reports, if they do not suit the executive branch, are ignored in practice.

Mr. President, I yield the floor.

Mr. STENNIS. I thank the Senator from Arkansas.

Mr. President, it is well for us to come to this point, to state the committee's position as we understand it. I call attention here, and I think this is an historical development, step by step, which is important and is a part of the legislative history that we draw in here together, and it may well have a bearing.

I have before me, first, title 4 of the general provisions of the bill as it came to our committee from the House, in connection with these funds, which is really what we have been calling all these years: foreign military aid. That ordinarily came through the Foreign Relations Committee.

Until a few years ago, when the war thickened, by common consent, it was sent to our committee, under rather broad language, because of the proximity of things there. Some of this foreign aid was granted to pay the Philippine Army, and the Korean Army, some was for equipment, and some was for this and that. They had given us a report on these items, but it never has been defined with great particularity. For most of it, there is good reason for that, because it is more or less picking up and paying the cost of a battle. The Army moves on. Over the years, though, they have given us an accounting, of a kind. Last year, we put this at a $2.5 billion ceiling. The language read as follows—in the House bill—which was a rescript of the language last year:

"Funds authorized for appropriation for the use of the Armed Forces of the United States under this or any other Act are authorized to be made available for their stated purposes in support——"

And here comes the foreign aid, military aid—

"Vietnamese and other free world forces in Vietnam."

I emphasize those last word, "in Vietnam."

When this bill passed the House, the sanctuary in Cambodia had not arisen. When the bill was before us, this battle of the sanctuary was going on, full tilt. So we struck out the words, "in Vietnam." The battle had moved beyond Vietnam. That was, though, consistent with the argument made here that this was not an invasion of Cambodia. It was an extension of the battlefield. So we took out the words "in Vietnam" as being too limited. Our purpose was to cover the

sanctuary battle and things that had happened in connection with it. We did not know, then, how far it would go. It was not our purpose, though, to launch into a broad authorization here of unlimited support with military aid to sustain, to guarantee, or to underwrite the Government of Cambodia. We looked upon that as another war. I did. And I think that was the prevailing sentiment in the committee.

After striking out those words, "in Vietnam", we wrote the language this way:

"To support (a) Vietnamese and other free world forces in support of Vietnamese forces."

I go over that again:

"(a) on line 4 of page—of the Senate—"

Mr. FULBRIGHT. Nineteen.

Mr. STENNIS. Page 19, right. I thank the Senator.

"To support Vietnamese and other free world forces in support of Vietnamese forces.

Now, at that time, Vietnamese forces were over in Cambodia. There was a battle going on over the sanctuary. Understand now, that none of this money goes to U.S. soldiers or to their cost in anyway. This is all foreign military aid. Then that was the way we covered in the body of the bill support of these forces over in Cambodia who were supporting the Vietnamese forces. They were supporting us, too, in a way.

But that is the way we covered the area of the sanctuary and we did not know how far that was going to extend. In the report, we spell out here now, further, what was meant. I refer to page 106 and read briefly from the middle of that page:

"The committee is of the opinion that the phrase 'in Vietnam'—"

Meaning in the House bill—

"should be the subject of clarification and, therefore has substituted the words "in support of Vietnamese forces". The reason for the substitution is to make clear the use of the authority for the purpose of supporting non-U.S. free world forces with respect to the border sanctuary and related area operations in Cambodia, and the protective reaction strikes in these locations. This clarification is for the purpose of protecting U.S. troops and the acceleration of the Vietnamization program."

In other words, at that time, this battle was still going on, the extent of it was not known, and it was our idea not to stop in the middle of the battle or to put on any restrictions, however far this went, as long as it was protecting U.S. troops or accelerating the Vietnamization programs that would be legal.

Then, on the top of page 107, the language covers the point—part of the point, in a way—I read from page 107—when I say report, I mean the official report of the Senate committee on the bill filed July 14, 1970:

"In making this clarification it must be clearly understood that there is no intent to broaden the authorization beyond the support of participation in border sanctuary and related operations in order to protect U.S. forces in Vietnam or to accomplish protective reaction strikes. The purpose of the clarification is to make clear that the use of Defense funds is authorized for support in those areas of Cambodia where for the purposes of Vietnamization or the protection of U.S. troops military action becomes necessary."

Now that is broad enough, and we intend it to be broad enough to include areas of Cambodia as long and as far as it was connected with the sanctuary or any program that the President was carrying out. That paragraph on page 107 is as clear as language can make it. We made it broad enough to cover anything connected with our activity there, our Vietnamization, and, that our troops could go back in in another sanctuary under like circumstances. That is what it was intended to cover, going back in for the same purpose.

Then they put the negative here:

"There is no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian government."

That means the Cambodian Government as such in a movement beyond the reasonable limits of what we had already described. That is the way the bill is before the Senate and the way it explains it is, I think, clear.

I do not think there is any ambiguity dealing with the vague situation we had to deal with which changed from day to day.

I want to make it clear that we intended then to cover the authority of the President if there arose again the need to clear out sanctuaries so that he could do it so far as this was concerned and could pay for military aid to help those that were fighting with the Vietnamese and us, although we used the word "Vietnamese."

I lay that down as a part of the history and part of the situation that led up to the amendment that the Senator has offered.

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

Mr. STENNIS. Let me cite right there the part of the Senator's amendment. I think it ought to come in the RECORD at this point.

The language of the Senator's amendment provides:

"On page 19, after the period in line 8, insert the following: 'Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos.' "

Let us leave out the words "or Laos" for just a minute. I think it does complicate it. It reads "to provide military support and assistance to the Government of Cambodia." That is apart from or in addition to what has already been described. That is my interpretation of it.

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

Mr. STENNIS. I yield.

Mr. FULBRIGHT. Mr. President, with respect to the language the Senator has just read, I sought to use the language of the Armed Services Committee report as nearly as I could.

There are a couple of questions I would like to ask the Senator. I think my amendment would put into the statute what the Senator described just now as what he intended to achieve by this change in language. That is the way I and my staff interpreted the amendment, that it would put into the statute what we believe the Senator intended by his statement in the report. If that is so our only difference is as to whether it ought to be in the statute or not.

I suppose this reflects our relative trust as to whether the Executive will follow the committee report rather than the statute. Maybe the Senator has great confidence that the Executive will follow the report. However, I think it is better to put the language in the statute. We do not seem to differ.

Mr. STENNIS. Mr. President, may I ask the Senator a question at that point, because he has raised a point there. Is it the Senator's interpretation of the bill, as written now, and the report that there is no prohibition in any way on the battle of the sanctuaries, so-called? Then, my next question would be whether there would be any prohibition on additional sanctuaries.

Mr. FULBRIGHT. Mr. President, I was going to raise that very point, What is a sanctuary? After all, that has already taken place.

If the Senator is concerned that this same situation of the sanctuary matter might arise again, that does not bother me too much.

What I am trying to avoid is becoming really involved in a close-scale operation in support of the Government of Cambodia and the Government of Laos.

I say that is the language of the Senator's own report. It denies military assistance to the Cambodian Government from these funds.

Two things occur to me about the sanctuaries.

First, is their definition. The President described them, as the Senator well knows, and set a limit of 21½ miles, I believe, and said that he did not propose to go beyond that point with our troops.

It was generally conceded that was the limit of the sanctuaries as of that given date.

The President also made the argument—and I do not wish to misquote him, but I will describe what he said—that he regarded that incursion, as they use the word, into Cambodia as simply part of the war in Vietnam and not an invasion of another country.

I believe that is a fair way to state it. He said, therefore, that he did not need any additional authority, that the attack on sanctuaries was not a violation of the sovereignty of Cambodia.

The Senator has described the chronological development of this matter. If that is true, either the Senator is saying that the President went in there without authority or that he is trying to rectify that matter now.

If he did not have authority, I do not see why we need to change the language.

If his action then was authorized, then it is still authorized. I do not object to that, if that is it. So why not leave the language like it was.

Mr. STENNIS. In the House bill?

Mr. FULBRIGHT. Yes. I do not know how the Senator can get away from the fact that by insisting on this language in order to give the President authority to operate in the sanctuaries, he must be saying the President did not have this when he invaded the sanctuaries before.

Mr. STENNIS. I think it is purely academic for us to argue about the battle of the sanctuaries now. That is over.

Mr. FULBRIGHT. I agree with that statement.

Mr. STENNIS. What is done is done. At the time he wrote this language, the battle was still going on, so far as that is concerned. We were not in favor of bringing a bill to the floor that someone could jump on and say, "This bill limits what the President is now doing."

So we intended to enlarge it and did enlarge it and also added language that says that as long as the Vietnamization program—and that is a little indefinite—is protecting our men—and that is a little indefinite, but those are the general terms that are used—this money could be used for these foreign troops.

If the Senator agrees that the President did have authority to use the money, talking about military aid, in a recurrence of this kind in the future, why it seems to me that that would end the argument. It is a clear-cut agreement. And I do not see any use for the amendment, leaving Laos out for the time being.

But I want to be frank. I believe we are almost together, and we just want to make a record of it.

Mr. FULBRIGHT. My intention in offering the amendment was to express my explicit agreement with the Senator's statement in the report. That was my purpose; to show I agree with the Senator's sentiment expressed in the report. My difficulty is that I was afraid the language in the bill itself did not accurately and forcefully enough reflect the Senator's intention. My intention is the same as his. I do not want us to get involved in all-out support of the Govern-

ment of Cambodia—and that is what the report said—or of the Government of Laos.

Then, the only question is, how to tie that down so that the administration would be in agreement with the Senator and me. It is not that I disagree with the Senator but we might find ourselves in disagreement with future administrations.

Mr. STENNIS. You cannot control the administration in these words. Let us stay away from that, if we may. I will be frank with the Senator.

If the Senator agrees the situation would be clear for these purposes I have stated—Vietnamization, and that includes withdrawal and for the protection of our troops; and that another sanctuary would be permitted, I think that ends the argument about the Senator's amendment.

Mr. FULBRIGHT. It seems to me it ends the argument, I agree, the Senator agrees, and the Senator from Arizona agrees. If there is any need for new language, and the House has that language, and we say that language means this, they would have no reason to say otherwise, and that would end it because we do not need new language. Why do you not revert to the House language and say that all agree it will allow the President to do what he has already done? Otherwise, you are bound to have say, "If you do not agree with that, he did it without authority to go in there in the first place."

Mr. STENNIS. No; we could go back to the House language; it could be argued again that the President exceeded his authority.

Mr. FULBRIGHT. I do not make any argument. The Senator and I agree he did not. We accepted that.

Mr. STENNIS. But there are others.

Mr. FULBRIGHT. Who would dare do that?

Mr. STENNIS. I yield to the Senator from Arizona. I see now why we did not agree to a time limitation. This is a difficult matter.

Mr. GOLDWATER. I think we are much closer to agreement than it would seem.

I would like to ask the Senator from Arkansas if his amendment would cove the type help we have been giving; and I refer to two parts. Would it prevent tactical air support in Laos?

Mr. FULBRIGHT. This only deals with funds for foreign forces. This does not deal with funds for our forces. This is only foreign aid which the Senator was talking about.

Mr. GOLDWATER. I wanted to make that clear.

Mr. FULBRIGHT. It does not deal with our own forces.

Mr. GOLDWATER. Would it prevent the use of helicopters by the South Vietnamese in support of Laotian troops, say, in the Plaines des Jarres?

Mr. FULBRIGHT. It might. The Senator refers to South Vietnamese troops in support of Laotian troops in the Plaines des Jarres.

Mr. GOLDWATER. Yes.

Mr. FULBRIGHT. I think it would. We are trying to avoid becoming involved by our associates, whatever it is, and drawn into an overt war in Laos. It would not make any difference if it were in Laos or Cambodia. We are trying to apply the same principle. The only difference might be there are more sanctuaries in Cambodia. I am perfectly willing to agree with the Senator's idea about sanctuaries.

I think it would prevent paying South Vietnamese forces to go to the support of Laotian forces in helicopters, on foot, or in trucks, or in any other way.

Mr. STENNIS. I wanted to propose that we leave Laos out of this amendment.

Mr. FULBRIGHT. The Senator posed the question.

Mr. GOLDWATER. I asked about Laos because I think this is the thrust of the Senator's amendment.

Mr. FULBRIGHT. That is correct.

Mr. GOLDWATER. I am referring now to the border between Laos and that portion of South Vietnam that is close to North Vietnam. If South Vietnamese forces were used to upset any sanctuaries that might develop in that area, would this run contrary to the Senator's amendment?

Mr. FULBRIGHT. No; to be consistent, I think there are some sanctuaries right on the border. To be consistent I do not know how I could distinguish between them.

Senators will remember the theory of the President in explaining the incursion; that it was not an extension of the war; that it was not an incursion into a foreign country. That is about the way he put it.

Mr. GOLDWATER. Yes.

Mr. FULBRIGHT. Then, he had to have whatever authority he had with respect to the war.

That is why I think there is a logical inconsistency in saying now he must have this change to make it legal. The reverse has to be that it was not legal before. You cannot have it both ways. I would rather have it the old way and commit myself to accept his theory that he was entitled to go into the sanctuaries to protect our own troops and our program in Vietnam.

What we are really after is expansion of the war into two other countries, and I think that is what the committee said—support of the Government of Cambodia; it is almost a replay of the Vietnam war. That is what the Senator from Kentucky was saying, and I thought the committee agreed.

Mr. GOLDWATER. I can assure the Senator this was not the intention of the committee. We at no time proposed any language to support a new government.

Mr. FULBRIGHT. That is correct.

Mr. GOLDWATER. What we want to make sure of in our language is that we do not prevent the South Vietnamese from taking care of situations that are similar to the one the President had to decide on in connection with Cambodia.

Mr. FULBRIGHT. The sanctuaries.

Mr. GOLDWATER. Yes. I would hate to see us accept language that would prevent that.

Mr. FULBRIGHT. We do not seek that, but we do seek to prevent the South Vietnamese or the Thais, with our money, from going in there and building a full-fledged partnership with the Government of Cambodia and drawing us in.

Mr. GOLDWATER. My interpretation of the committee language is that it does that. I think it spells out plainly that we are not supporting the governments of these other countries.

Mr. STENNIS. The Senator is correct.

Mr. FULBRIGHT. But the change in language—if you will leave the language as it has been without this change, and with this legislative history, I would be satisfied. People will say, "Why did you change that language? It must mean something. The House did not have it." People assume that it means something.

Mr. STENNIS. May I answer the Senator?

Mr. FULBRIGHT. I think it would be better to take it out and we would agree what it means.

Mr. STENNIS. It means to cover the sanctuary situation as it was going on when that language was written, or as it may recur. It means nothing more.

The Senator agrees he would approve that, so we are at home base.

Mr. FULBRIGHT. I approve it. The only trouble is, will the administration approve it? The administration has not approved it. I agree on that and we should get the language into the bill.

Mr. STENNIS. Let me suggest this. This matter goes to conference. The language of the House bill will be in conference. The language of the Senate bill will be in conference, and so far as it relates thereto, the report language will be before the conferees. What the Senator from Arkansas has said will be before the conferees. That is true of the Senator from Arizona, the Senator from Mississippi, and other Senators who may have discussed this matter here. If we leave Laos out, are we not together on this problem?

Mr. FULBRIGHT. I do not quite see why. If we agree to this rather broad interpretation that the Senator from Arizona mentioned, we should leave Laos out. What is "bugging" the Senator on Laos? I do not understand it.

Mr. STENNIS. Leave it out of this amendment because it is an altogether different situation.

Mr. FULBRIGHT. Well, not altogether.

Mr. STENNIS. The Ho Chi Minh Trail is there.

Mr. FULBRIGHT. We are not going to bother the Ho Chi Minh Trail. We had that out on the Cooper-Church amendment. I am not trying to bother the Ho Chi Minh Trail. What I am trying to to do is to avoid becoming involved in support of these countries against internal civil wars they may get into. That is how we get dragged in behind them.

Mr. STENNIS. The Senator asked me why I want to leave Laos out. If I may finish my answer now, the question is, Why does the Senator from Mississippi suggest that we strike the words "or Laos" out of the amendment? An altogether different situation is involved. We have been in there a long time. We went into Cambodia just for the sanctuary battle.

Mr. FULBRIGHT. What does the Senator means when he says "We have been in there a long time"?

Mr. STENNIS. The Senator knows we have been in there for a long time. The Ho Chi Minh Trail is there. We bomb it constantly.

Mr. FULBRIGHT. Oh, yes; but I am not talking about that.

Mr. STENNIS. Let me finish. We have all the complications that go with that. We provide some military aid to the Laotians. The Senator is familiar with that. It is in the bill. Cambodia has been left out, as the Senator knows. The situation in Laos is known. It is stabilized. The language in the Senate bill is exactly as it is in the House bill. The language that says we can still aid the local forces is still in the bill. We have no such language for Cambodia.

So, like it or not, good or bad, Laos has a status, and it is a part of our battleground, just as the sanctuary was.

I think we could agree on something if the Senator would leave Laos out of the amendment.

Mr. FULBRIGHT. As I have said, I am not bothering what we ourselves do. The amendment will not bother what we give to the Laotians. It is simply saying, "Look, we do not want our so-called allies from Thailand and Vietnam to go up and get us further involved. We have some degree of control over what we are doing."

It will not disturb what has been the past practice in Laos. The Senator says that Cambodia is not provided for, but the administration right now, according to word that we have—and this is an additional reason why the amendment is important and it is coming up here to brief us on it—is in the process of negotiating a very substantial aid program for Cambodia. I think that is a very dubious proposition, but they are in the process of doing it.

The Senator says that they were left out of the bill, but it is not left out of the planning of the administration, although no presentation has been made to our committee on this matter. Of course, the President has discretion, up to $50 million, to take funds designated for one country and give them to Cambodia; but no aid was contemplated for Cambodia at the time we considered the bill. This is a new deal.

That fact makes it all the more important that we make it explicit that we do not want to get bogged down in another war like Vietnam or Cambodia or Laos. I do not expect the

amendment to affect what has been going on in Laos—that is, the bombing of the trail, our assistance to Laos, or what our people are doing there—because it does not affect that. It is to keep the Vietnamese or the Thais from dragging us into another war. In a word, that is the purpose of the amendment.

Mr. STENNIS. So the Senator from Arkansas is saying that anything we have going on in Laos now is not to be affected in any way by the amendment he offers?

Mr. FULBRIGHT. Not that I know of. The reports in the newspapers as of today—I know it officially—indicate that the South Vietnamese are getting ready to mount an invasion. I hope that is not true; but in my opinion that is not acceptable. What I was referring to was what has been the traditional operation; what was going on 2 or 3 months ago, such as the bombing. Recent actions are what I would exclude. If they have been doing something else in the last day or 2, that is what I would object to.

Mr. STENNIS. The Senator would exclude anything such as might have happened in the last 2 or 3 days.

Mr. FULBRIGHT. Exactly; anything such as has been published in the newspapers as having taken place quite recently.

Mr. STENNIS. The Senator would exclude anything that has been taking place in recent days. He does not intend by his amendment to exclude——

Mr. FULBRIGHT. To exclude what we call the traditional operations——

Mr. STENNIS. In Laos?

Mr. FULBRIGHT. Yes. That was the whole thrust of the amendment of the Senator from Kentucky. He did not want to have us become further involved in Laos. But his amendment related to Laos and Thailand. He did not include Cambodia; we got into that later. This is entirely consistent.

Mr. COOPER. Mr. President, I hesitate to get into the debate because I think the Senator from Arkansas has made his point clear. I merely repeat—we have talked it over so many times—that his purpose is to prevent these funds from being used to get the United States involved in support of Cambodia through the use of Vietnamese troops.

Mr. FULBRIGHT. That is correct. It is not intended to be a rollback. I do not intend it to be a rollback, but to stop the operations from going further.

Mr. STENNIS. May I ask the Senator from Kentucky a question out of order? The Senator has heard what I have said concerning the situation as I see it. Does he agree that it is correct?

Mr. COOPER. I agree that what the Senator from Mississippi and the Senator from Arkansas have agreed on is correct, yes. I favor the language that the Senator from Arkansas has proposed, because it makes so clear that the activities on the Ho Chi Minh Trail would not be curtailed.

Mr. STENNIS. I think we have had a most helpful exchange and a very fine presentation. I do not think we can dispose of the amendment tonight. There are other amendments from our committee that I would like to have a chance to speak to or to have colloquy on with any Senator who wishes to speak to them.

Mr. FULBRIGHT. I wish to compliment the Senator from Mississippi for his contribution and for making it very clear that he does not approve of expanding the war by proxy into U.S. support of the Cambodian-Laotian action. There is confusion about this, and there is considerable concern that it might be expanded if we do not take real, positive steps to prevent it. I am very much pleased that the Senator from Mississippi thinks as he has just expressed himself.

Mr. STENNIS. I have told the Senator from Arkansas everything that is on my mind. I want to make it clear that I am a "sanctuary man," and the Senator from Arkansas agrees to that.

Mr. FULBRIGHT. I accept that I am not trying to roll back anything; I am trying to prevent any advance.

Mr. STENNIS. I thank the Senator from Arkansas for yielding. I believe the debate has been profitable.

I understand that other Senators desire recognition, so I do not claim the floor any longer.

[From the CONGRESSIONAL RECORD, Aug. 21, 1970]

RESUMPTION OF DEBATE

Mr. FULBRIGHT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FULBRIGHT. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Arkansas. It is amendment No. 812.

Mr. FULBRIGHT. Mr. President, I hope that we can dispose of this amendment very soon. I hope that some Senators will remain in the Chamber for at least a brief period of time. The Senator from Mississippi wishes to make a statement. We had a long colloquy of an hour and a half or 2 hours on yesterday.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

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

Mr. FULBRIGHT. I yield.

Mr. MANSFIELD. Mr. President, it is anticipated that we will take up the pending business, which is the Fulbright amendment, then the Bayh amendment, and that we will then go into the consideration of the Public Works appropriations bill. If we possibly can, we will try to finish the appropriations bill this afternoon. So, everyone is on notice.

Mr. STENNIS. Mr. President, I insist on order. This is an important amendment that is of interest to every Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. FULBRIGHT. Mr. President, on yesterday afternoon we had a very interesting and thorough colloquy regarding this amendment.

The Senator from Mississippi and I are very close in our views on this amendment. The amendment seeks to put into law the language of the committee report and add Laos. The Senator and I have discussed an understanding of this amendment and what the committee intended.

I think that we mean to accomplish the same objective. It is primarily a question of whether this language should be in the law and Laos included.

I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator. It is possible that this matter can be disposed of, if that is the will of the Senate. It is a highly important matter. I think that every Senator here ought to have a chance to be heard. It is a little complex, but we will not rehash it.

I heartily agree with the Senator from Arkansas that we had a colloquy here yesterday that very fully, I think, and clearly stated the position of the Senate Armed Services Committee in this question of certain funds for military aid in South Vietnam and all the Indochina area.

My remarks now relate to amendment 812, the matter now before the Senate. Briefly stated the position of the Senate committee was that we approve the expenditure of these funds over into Cambodia on the sanctuary—the principle of destroying sanctuaries, and forays that had to do directly with the Vietnamization program, the withdrawal of our troops, and the protection of our troops.

Our interpretation was that that language permitted the President even to use this money to go back in on a sanctuary matter, if necessary. We took this up when the battle was going on over there.

The amendment of the Senator from Arkansas places a limitation on clause A, as pointed out by the colloquy that we had. I think it is a part of what was intended as a part of the law.

So I said to the Senator this morning if his amendment goes to conference we will have at the conference table the bill as passed by the House, and that has the language in it "in Vietnam" which we thought was too narrow. We took that out and substituted the language I already described. Then, we will have before us the Senate language and also the Senate report and we will have the Senator's amendment. All of that material will be in conference.

We had a splendid discussion here yesterday which was participated in by the Senator from Arkansas, the Senator from Arizona, the Senator from South Carolina and others. I do not recall the names of all the Senators who participated but the substance of the colloquy was that we are not limiting the sanctuary idea—the destruction of it—limiting the support of the Government—period. That is it.

I feel we could accept this amendment.

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

Mr. FULBRIGHT. I yield.

Mr. GOLDWATER. I had only one feeling of doubt, as I expressed yesterday, and that would concern the interpretation of our possibly interfering with activities of another government. I studied this proposal last night. I think the language the Senator proposed would not do that.

We are not saying to South Vietnam, "You cannot attack Laos." We are saying "You cannot expect any help from us if you do it."

I think the language of the Senator from Arkansas is clear on that point. I think the colloquy yesterday established the fact that neither the Senator's language of the committee, nor the language of the House will preclude the use of our tactical air support of the Laotian army when they call for it.

I must say that is a limited time of year, when the monsoons are over there, as the Senator knows. This would include the use of a helicopter drop but it would prevent the use of our ground forces at any time. I would certainly support any move in that direction and would deny funds to South Vietnam for support of any invasion of theirs. If they want to do it on their own, with their own money it is up to them.

I think the amendment, as the distinguished chairman has said is one we can take to conference. I think, having slept on it overnight, it is better language than we came up with, and we worked a long time on this because we were in the middle of the Cambodian sanctuary move and we were very anxious that the language we reported to the Senate would indicate that the committee did not want to support any government, not only in Southeast Asia, but any place.

I certainly hope, Mr. President, we can take this to conference and that it will prevail.

Mr. STENNIS. I thank the Senator.

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

Mr. FULBRIGHT. I yield to the Senator from South Carolina.

Mr. THURMOND. It appears that this amendment is in line with the committee report and also from the colloquy yesterday between the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, and the distinguished Senator from Arkansas (Mr. FULBRIGHT), exactly what it means. It has been interpreted more clearly now, and I think it would be proper and wise for the Committee on Armed Services to go along with this amendment. I would suggest to the chairman that

we do go along with it. As far as I am concerned, I am willing to go along with it.

Mr. STENNIS. I thank the Senator.

Mr. FULBRIGHT. The Senator from Mississippi mentioned a number of Senators a while ago. The Senator from Kentucky has been extremely interested in trying to define the limits of the engagement in Southeast Asia. He has made a great contribution to the Senate's consideration of this subject.

I interpret this amendment and the intent of the committee to be quite consistent with the intent of the Cooper-Church amendment, that is, to prevent an expansion of the war. The amendment does not relate to our own activities but to those of countries that could be financed under the authority of this bill.

I again reiterate this pertains to the possibility of our financing military activities by the South Vietnamese or the Thais in support of the governments of Cambodia and Laos. I believe everybody agrees that we should not do that. It seems to me intolerable that we should finance that kind of activity.

I am very pleased the chairman will accept the amendment and take it to conference.

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

Mr. FULBRIGHT. I yield.

Mr. MILLER. So that we are absolutely clear on this point, the Senator knows the Thais are concerned about possible incursions into Cambodia which, in turn, could pose a threat against Thailand. Does the Senator see anything in his amendment which would preclude some of this support for Thailand forces operating actually in Cambodia but for the purpose of avoiding attack on their own country?

Mr. FULBRIGHT. I am bound to say it would prevent us from financing from these funds Thai forces which might fight for the Lon Nol government. If they want to do it on their own we cannot stop them. But we do not have to pay the bill. This is somewhat like the subject we discussed yesterday. We have been paying these people far more in bonuses than we give in combat pay to our own troops. That is not a good practice and it distorts our whole relationship with these countries.

In this case I would interpret the DOD funds are not to be used to support Thai forces that go into Cambodia to support the Lon Nol government. That is one of the objectives of the amendment.

Mr. MILLER. The Senator from Iowa understands the sentiment is not to allow Thai troops to go into Cambodia in support of the Lon Nol government. But that was not the question.

The question was with respect to the use of these funds to allow Thai troops to go into Cambodia, not to support the Lon Nol government, but to help them protect Thailand from a fairly imminent attack on Thailand from Cambodia. There has been the problem of some incursions coming in from Laos, into the northern areas of Thailand.

Mr. FULBRIGHT. They were not involved. The Senator is expanding the concept into a whole new area.

We are talking about operations by the South Vietnamese in the sanctuaries and for the protection of our troops in Vietnam. That is what the money under this authority is limited to.

My interpretation is that the Senator's example is forbidden by this amendment. We are not going to finance the Thais; they can finance their own operations in Cambodia, if they choose to intervene.

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

Mr. FULBRIGHT. I yield.

Mr. GOLDWATER. It might better be explained by saying that if the Thai government wants to attack anybody at any place that is their business. They do it on their own but not with our money.

Mr. FULBRIGHT. That is true. We are not trying to tell the Thais they cannot attack Burma or China, but that none of our money will be used to finance their doing it.

Mr. MILLER. I think what I am getting at is that we are so prone to think about privileged sanctuaries along the border of South Vietnam that we overlook the fact that we can have privileged sanctuaries in Laos or the western area of Cambodia, which bases would or could pose a threat to Thailand.

That is the type of situation that I am directing my question to. There is a great deal of difference between taking care of a sanctuary situation in the western part of Cambodia which poses a threat to Thailand and sending a lot of troops into Cambodia and supporting the Lon Nol government. I am trying to bring that situation out because I believe the example I put in the RECORD is not one we would want to cover by this amendment.

Mr. FULBRIGHT. I do not know that I have anything to add to what I have said. That is not the policy of the committee, as I understand it, as expressed in the report.

Mr. MILLER. May I ask the distinguished chairman what the policy of the committee would be on that point?

Mr. STENNIS. Mr. President, this is all reflected in the committee report. I think the best way to get it in proper focus is to read the committee amendment and the committee report.

The House bill and the Senate version of the bill expressly provide that this money can be spent for local forces in Laos and Thailand, so there is no doubt about that, and it is left as it was in the House bill.

Let me read the committee language first, on page 19 of the bill, line 4. It states that the funds are to be made "available for their stated purposes to support: (A) Vietnamese and other free world forces in support of Vietnamese formes, (B) local forces in Laos and Thailand." We took the words "in Vietnam" out because that was too narrow to cover the sanctuaries. We wanted to cover the sanctuaries.

We define that further in the report on page 106:

"The Committee is of the opinion that the use of the authority in section 401 of the fiscal year 1970 act (and its related appropriation act provision) to support South Vietnamese and other free world forces in border sanctuary operations in Cambodia and in protective reaction strikes in these same areas was correct. Such action is in line with the policy of Vietnamization which in turn has and will continue to assist in the reduction of U.S. forces in Vietnam and the protection of such U.S. forces as remain in Vietnam. Doubt has been expressed by some that because of the use of the words "In Vietnam" in this section, as to whether any support for South Vietnamese or free world forces outside of Vietnam in the sanctuaries of Cambodia is authorized. The Committee desires that there be no misunderstanding about the authority for those important actions and has accordingly changed the language of this section to remove all such doubt.

"In making this clarification it must be clearly understood that there is no intent to broaden the authorization beyond the support of participation in border sanctuary and related operations in order to protect U.S. forces in Vietnam or to accomplish protective reaction strikes. The purpose of the clarification is to make clear that the use of Defense funds is authorized for support in those areas of Cambodia where for the purposes of Vietnamization or the protection of U.S. troops military action becomes necessary."

And that means the action we were in when the report was written or any future actions of that kind; and the Senator from Arkansas agrees with that—

"There is no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian Government."

So money from this bill cannot be used for anything that is primarily in support of the Cambodian Government. The money provided in the bill can be used for anything that goes with the Vietnamization program, the withdrawal program, the protection of our troops, the destruction of sanctuaries. We have heartily agreed on that. That is the extent of the amendment. I think it is time we get it clearly understood. I cannot go any further than I have.

Mr. MILLER. Mr. President, will the Senator from Arkansas yield to me so I can ask the Senator a further question?

Mr. FULBRIGHT. I yield.

Mr. MILLER. I appreciate the Senator from Mississippi's explanation.

As I understand it, the last sentence that we read—

"There is no intent to permit the use of DOD appropriations under this authority to support Vietnamese and other free world forces in actions designed to provide military support and assistance to the Cambodian Government."

actually is expanded still further by delimiting the type of sanctuary operations to those which are pretty much related to U.S. forces in South Vietnam, and that if there are sanctuary operations that are not so related, then the proscription would apply?

Mr. STENNIS. Generally that is correct; yes.

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

The amendment (No. 812) was agreed to, as follows:

On page 19, after the period in line 8, insert the following: "Nothing in clause (A) of the first sentence of this paragraph shall be construed as authorizing the use of any such funds to support Vietnamese or other free world forces in actions designed to provide military support and assistance to the Government of Cambodia or Laos."

Mr. FULBRIGHT. I appreciate very much what the Senator from Colorado and other Members of the Senate have said, because these are difficult matters to interpret. Even if is not in the law, it ought to be persuasive on those who have to carry out the law.

Mr. ALLOTT. Mr. President, I know the Senator from Idaho wants the floor, but will the Senator yield to me for a brief remark? The Senator from Idaho has been waiting very patiently.

Mr. FULBRIGHT. Yes. I shall shortly yield the floor.

Mr. ALLOTT. I would like to just say that many of us here are lawyers, and one of the traits of lawyers is that nothing any other lawyer writes is completely satisfactory to them. We call them the t-crossers and the i-dotters.

I realize that if others were trying to accomplish this purpose, they would put this language in different words, as would the Senator from Kentucky. We tried to put it in simple language, having in mind always that one thing we were up against was that they absolutely would not bend. Having adopted it once in the House, eliminating the prisoner of war language would not get very far.

Mr. FULBRIGHT. Mr. President, I yield the floor.

Mr. CHURCH. Mr. President, I would like to say, first of all, that I have just

been informed that the House has just approved this conference report by a vote of 234 to 19.

Now, I want to ask the distinguished Senator from Louisiana a question or two concerning the conference report. The bill, as originally passed by the Senate, contained a provision which prohibited the funding of American ground combat forces in Laos, Thailand, and Cambodia. The Senator will remember that, at the request of the distinguished Senator from Kentucky and me, the Senate Appropriations Committee added "or Cambodia" to the restriction which formerly had covered only Laos and Thailand. To that restriction then, as the bill originally came back from conference, a proviso had been inserted by the House conferees, so that the provision then read as follows:

In line with the expressed intention of the President of the United States, none of the funds appropriated by this Act shall be used to finance the introduction of American ground combat troops into Laos, Thailand, or Cambodia: *Provided*, That nothing contained in this section shall be construed to prohibit the President from taking action in such areas designed to promote the safe and orderly withdrawal or disengagement of U.S. forces from Southeast Asia or to aid in the release of Americans held as prisoners of war.

The first question I would ask the Senator is this: Has that proviso, in its entirety, including the original Senate addition of the words "or Cambodia," been stricken from the conference report?

Mr. ELLENDER. Yes, it has.

Mr. CHURCH. So that, as the bill now stands, there is no language in the Defense Appropriation Act which would affect the use of American troops in Cambodia; is that correct?

Mr. ELLENDER. That is correct.

Mr. CHURCH. That would mean that the controlling language restricting the use of American troops in Cambodia would be found in the supplemental authorization bill. I should like to read that language into the RECORD at this point.

As passed by the Senate and later approved by both Houses and sent to the President, the language contained in the supplemental authorization bill reads as follows:

In line with the expressed intention of the President of the United States, none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia, or to provide United States advisers to or for Cambodian military forces in Cambodia.

Is it not the Senator's understanding that this language, presently contained in the supplemental authorization bill, the bill which authorizes the Cambodian aid program, would be the only language pertaining, and therefore the controlling language with reference to barring the introduction of American combat forces or advisers into Cambodia?

Mr. ELLENDER. Yes, the Senator is correct.

Mr. CHURCH. Mr. President, I think it might be appropriate, in the light of the answers that the distinguished Senator from Louisiana has given me, to include at this point in the RECORD, once again, a letter I received on December 19, 1970, from the Secretary of State, making it clear that it is the intention of the administration to accept this language of limitation, and to conduct the Cambodian aid program in conformity with it.

The letter reads:

DEAR SENATOR CHURCH: Confirming Assistant Secretary Abshire's conversation with you, I should like to reaffirm that the administration's programs and policies and intentions in Cambodia in no way conflict with section 6 of H.R. 11991—

The section, incidentially, which I have just read into the RECORD—

or with the concerns expressed in the colloquy on the floor of the Senate on December 15, 1970.

The letter is signed by William P. Rogers.

Mr. President, I ask unanimous consent that the colloquy referred to in the letter, appearing on pages 41623 through 41624 of the RECORD for December 15, 1970, be reprinted at this point in my remarks.

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

Mr. STENNIS. Mr. President, I do not think I shall take more than a few minutes. I wish to address a question to the Senator from Alabama. I direct the attention of Senators to this question because it is a matter of some importance.

I wish to direct the attention of the Senator from Alabama to page 7 of the bill as now printed, and that part that provides, beginning with line 1: "none of the funds authorized or appropriated pursuant to this or any other Act may be used to finance the introduction of United States ground combat troops into Cambodia."

My question to the distinguished Senator from Alabama is as to his interpretation of this limitation on the President about financing the introduction of U.S. ground combat troops into Cambodia.

Is that language intended to be a prohibition on the President's going into Cambodia with U.S. combat troops to meet a situation like the sanctuary battle that we had last June and July, which proved to be directly connected with the arsenal, the armory, and everything else that goes to make war on our men in South Vietnam, and which proved to be beneficial? Would the Senator from Alabama speak to that point?

Mr. SPARKMAN. As I recall, when the President announced that we were going into Cambodia, he gave us the reason that it was to protect American troops—American people, American citizens—who are in South Vietnam. It was for that purpose. The sanctuaries imperiled those citizens and that was his purpose for going in there.

I may say that in the committee discussion I raised the question as to whether or not this language would permit the use of American forces to protect American lives in South Vietnam, as was done before. I shall be very glad to check on this, but, as I recall, the answer was that that would be a presidential power, that he would be exercising his own powers, and that this language did not prohibit that.

The distinguished Senator from Idaho (Mr. CHURCH), a few minutes ago, said something about the constitutional powers question still being unresolved. We all admit that. I would be very glad if the Senator from Idaho would say something on this.

Mr. CHURCH. I thank the Senator.

Mr. President, the question of the distinguished chairman of the Committee on Armed Services goes to the heart of the debate that took place this spring and summer on the Cooper-Church amendment. Since we had much time—7 weeks—to explore the question, we discussed it at considerable length.

In the course of the debate, it was recalled that in times past the President had invoked his constitutional authority as Commander in Chief to order rescue operations, to take precautionary action to protect American troops in the field threatened with an imminent enemy buildup that posed a serious danger to them, and that, within the framework of past precedent, there is an area of discretionary action open to the President as Commander in Chief.

The exact definition of that power has never been attempted in the past. Congress has never undertaken to define it with precision. The best answer must rest upon the precedents.

However, I would not want it to be thought that writing this language into the bill has little or no effect. Far to the contrary. No one has contended, based on the precedents, that the President can make general war or deploy an army in a foreign country on his authority as Commander in Chief.

This language would clearly prevent the deployment, for an extended period of time, of a substantial number of American troops in Cambodia. If the President intended to do that, the money is not made available for that purpose, and it would be necessary for him to return to Congress and ask our consent. But it is true that, as Commander in Chief, within a limited area, the President has power to initiate action designed to protect American troops in the field.

Mr. STENNIS. If I may ask the Senator this question, with reference to the battle of the sanctuary, the areas that the President invaded this summer, to destroy ammunition, and so forth, would the Senator think that his language prohibits a repetition of that if the facts are similar and conditions are pressing?

Mr. CHURCH. If there were a particular concentration just over the border which constituted a serious, imminent threat, that could be suddenly struck and destroyed, that might fall within the President's powers as Commander in Chief. However, I could not say to the Senator that undertaking an extended invasion of Cambodia with a large American expeditionary force for six or eight weeks falls within the scope of his power under the Constitution as Commander in Chief.

This whole question was fully explored in the course of the earlier debate.

From a conversation I had with the President last evening, it is my understanding now that he no longer takes exception to the limiting language. He feels it conforms with his own policy in Cambodia. He says he has no intention of sending back troops. He no longer persists in objecting to language of this kind. I could not say, however, that this prohibition in the bill would not preclude an invasion of Cambodia on the scale that took place and for the length of time that occured last summer. I feel it would.

Mr. STENNIS. On that point right there, the Senator understands that no President, no Commander in Chief, no Army field commander, can tell how long it would take to carry out an objective. They go into the unknown. Also it takes time to prepare for such an attack on a sanctuary. So the President and his advisers might have to have 3 or 4 weeks, or even longer, to prepare. It is a deliberate act. It is not an extreme, rash act.

So the Senator would not preclude, then, a bona fide effort, the planning of an attack, an invasion, technically, of the country to clear out and clean out a sanctuary that was an imminent threat to our men in South Vietnam?

Mr. CHURCH. I would say, in reply to the Senator that, in the first place, there would be nothing to preclude whatever any planning on any military mission. Yet on the basis of precedents, the President's power as

Commander in Chief to undertake military action is strictly limited to actions restricted both in scope and time, and which are directly related to the need to protect American troops in the field.

Mr. STENNIS. While I am on that, the Senator does recognize that it takes time, and cannot always be foretold exactly?

Mr. CHURCH. Yes, I appreciate that there is no way to foretell precisely the length of an intervention.

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

Mr. GRAVEL. I yield to the Senator from Vermont for an observation.

Mr. AIKEN. Mr. President, I do not think the Committee on Foreign Relations now takes a position much different than it took last spring. If an incursion is necessary for the safety of our men, there would be no objection, but an invasion, which, as stated by the Senator from Mississippi, would require a long time in preparation and probably a long time to carry out, would have to be reported back to the Senate before it was undertaken. The committee did make a sharp distinction between an incursion and an invasion.

Several Senators addressed the Chair.

Mr. GRAVEL. I yield to the Senator from Alabama.

Mr. SPARKMAN. May I say that I did not understand that the Senator from Mississippi was speaking of an invasion. The term "incursion" was used, I think, in referring to it. But I think it is the objective that is controlling—in other words, the protection of American lives.

Mr. STENNIS. The Senator is correct, and my question was based on the incursion or the thrust, rather than a large scale invasion.

Mr. SPARKMAN. To protect American lives.

Mr. STENNIS. Primarily to protect the lives of our soldiers, our military men. I did make the point that sometimes it took weeks even to plan an incursion and get ready for it.

Mr. SPARKMAN. I wish to say that there is nothing in here that intends to limit the President's constitutional powers to act in an emergency in order to protect American lives.

Mr. STENNIS. I appreciate the Senator's answer; and, if I may respond quite briefly to the Senator from Idaho, Mr. President, I do not think it is definitely known, according to the precedents of history or according to this debate, just what the extent of the President's powers as Commander in Chief is. I think it depends greatly on the circumstances. I do not want any hard law here that would create any cloud or any doubt in any President's mind as to what his responsibilities are. I want to leave him with the responsibilities as well as the powers. If we do not leave the powers and the responsibilities with him, then it is not his fault or he is not to blame, and we have no head of State to that extent.

Mr. SPARKMAN. There is no effort here to limit the President's emergency powers or his constitutional powers.

Mr. STENNIS. Yes. That is why I am so concerned about this. The point first came up, as far as written law is concerned, in the military procurement bill. The battle of the sanctuaries was on then, and we put language in there that was approved by this body, that he would not be restricted as long as it was tied to our men and their safety in the drawdown. The battle over that language is going on now in appropriation bills and elsewhere, as well as here.

Is seems to me that the colloquy has made it clear that this language does not take any of the responsibility nor the power away from the President of the United States to do what he thinks is reasonably necessary, within reasonable limitations of time, in destroying arsenals, armories, armies, or anything else that is in close proximity to our borders, which we have designated by the general term "sanctuaries," as in the past.

Mr. CHURCH. Mr. President, may I make one observation? Will the Senator yield for that purpose?

Mr. STENNIS. I yield.

Mr. CHURCH. It is perfectly true that it does not lie within the power of this body, even if we were to harbor an intention to do so, to curtail the constitutional powers of the President as Commander in Chief.

What we seek to do here is assert congressional powers over the spending of the public money. That is within our authority. It is clear, as far as my evidence indicates, that the President is now willing to acquiesce in a limitation of this kind imposed upon the funds made available in this bill and in other bills, vis-a-vis Cambodia.

It follows that if the President were later to decide that is in the national interest to repeat an extended, full scale military invasion of Cambodia, he would come back to Congress and ask our consent.

We are exercising our power. I recognize that it is not within our reach to undermine such constitutional powers as vest in the presidency in the role of Commander in Chief.

Mr. CHURCH. Mr. President, I want to make this record tonight because I believe this conference report represents the culmination of an attempt that has gone on now for more than a year to write a statutory limitation on the extension of American military involvement in the Indochina war. That effort began when the first Cooper-Church amendment was adopted by the Senate last December, written into law, denying funds for introducing American combat troops into Laos or Thailand.

That provision still stands as part of the law, being included once again in the pending bill.

The effort was renewed in May and June of this year, during the extended debate on the second Cooper-Church amendment, adopted at the end of June by the Senate, but then rejected by the House of Representatives. At that time, the administration was unwilling to accept any statutory limitation on the use of American combat troops in Cambodia.

Now we come to the climax of the struggle, in the closing days of this Congress. The administration's position has changed. The President now indicates a willingness to accept a statutory prohibition against the introduction of either American ground combat forces or advisers into Cambodia, and thus the principal goal of the Cooper-Church amendment of last May and June has been achieved.

I think it is a historic moment, Mr. President, because to my knowledge this is the first time in the history of the United States that Congress has undertaken to write limitations into the law applying to the deployment of American troops abroad in the course of an ongoing war.

Two years ago now, or nearly so, the Senate passed a commitments resolution, in which it undertook to commence a reassertion of the prerogatives of the Senate in the field of foreign policy—prerogatives that had eroded away with the constant expansion of executive power. Tonight I think we see the largest step yet taken in the restoration of the Senate's role under the Constitution to participate responsibly in limiting American involvement and commitments abroad. So I think, Mr. President, this is a very significant occasion for the Senate.

I express my deep appreciation to the distinguished Senator from Kentucky for the continuous and steadfast effort he has made through the many months of this debate. Without his help, this could not have been accomplished, as all of us know. With his help, it was evident from the start that ours was a bipartisan effort endorsed by the majority leader (Mr. MANSFIELD) and the dean of Senate Republicans (Mr. AIKEN), involving many Republicans as well as Democrats, and that its purpose was not to embarrass a Republican President, but rather to recover for the Senate its right, power, and authority in the field of foreign policy—an authority conferred upon it and vested in it by the Constitution of the United States, but one that had been permitted to erode, through the years, nearly to the point of extinction.

So I am happy to give my support to this conference report. I hope that the Senate will adopt it. I congratulate the conferees on the Senate side for their efforts to resolve what I know was a most difficult problem, and my compliments also go to the distinguished Senator from Mississippi (Mr. STENNIS), whose understanding of the problem and his love for this institution are quite beyond question.

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

Mr. CHURCH. I am happy to yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I shall be brief. I wish to speak for a few minutes while the Senate conferees are in the Chamber, and while the distinguished chairman of the Committee on Foreign Relations remains here.

First, let me thank my colleague, the Senator from Idaho (Mr. CHURCH), for his very kind statement. It has been a great joy and opportunity for me to work with him for over a year. His abilities, courage and statesmanship stand out before the country. I am glad that at last the Congress of the United States and the administration have agreed that ground forces shall not be introduced into Cambodia without the consent of Congress, and I think that position is generally understood.

As to the language—the proviso—before the Senate, I would have preferred that all the language had been stricken, or a substitute for the second clause in the proviso had been written to provide that the constitutional power of the President as Commander in Chief shall not be limited with respect to the protection of our Armed Forces. But we must deal with this language before us.

I must be frank. I believe the proviso leaves a loophole so far as language is concerned. That possibility has been greatly reduced and may have been wholly reduced by the interpretation of the conferees. I believe the most important and significant interpretation by the conferees who have spoken is that this proviso shall be used only to insure the safe withdrawal of our troops. It is an interpretation which comes very close to, if not exactly in line with, the constitutional power of the President to protect the troops, which he has. Never-

theless the language is somewhat loose. It could be used by the executive—and I do not suggest that it will be used—for a much broader purpose than the protection of our troops, as they withdraw.

But I should like to say that when we have heard the statements of Senate conferees—and if I give an incorrect interpretation of the statements of the conferees, I hope they will object—when we have heard the statements of the conferees, including the distinguished chairman of the Senate conferees, Senator ELLENDER, and the interpretation of the chairman of the Committee on Armed Services, Senator STENNIS, in this body, as we do the word of all the conferees, the interpretation of the ranking Republican member, Senator MILTON YOUNG, and the Senator from Colorado (Mr. ALLOTT), a high ranking official in the Republican Party in the Senate, the agreement of the Senator from Kansas (Mr. DOLE), the important questions by the Senator from Arkansas (Mr. FULBRIGHT), the questions which the Senator from Idaho (Mr. CHURCH) and I have asked and the responses from the conferees I believe that the debate provides an interpretation, and a narrow one, to the language of the proviso.

It is a proviso which would permit the President to support the Vietnamese or other free world forces in assisting the United States in withdrawing its forces and for their protection. If I am wrong in that judgment, I hope I will be told so by the conferees.

I must say that it is upon this basis, and not upon the language—which is loose—it is upon the basis of interpretation by these conferees, honored men of the Senate, that I shall accept the judgment of the conferees and the Senate. Otherwise, I would oppose this report.

I would like to pay my respects to the Senate conferees, able and respected men, for their faithful work.

Mr. CHURCH. Mr. President, I would feel it remiss on my part if I did not pay special tribute tonight to the distinguished chairman of the Committee on Foreign Relations, the Senator from Arkansas (Mr. FULBRIGHT).

As this conference report now stands, there is no proviso modifying the statutory restriction against the use of American troops or advisers in Cambodia. Let that be perfectly clear. The proviso on which so much of the discussion has centered relates to an amendment first offered by the distinguished Senator from Arkansas (Mr. FULBRIGHT) and has to do with the use of money in the bill for the purpose of paying foreign troops—South Vietnamese, Thai, Laotian—who may be engaged in combat activity in Cambodia and Laos.

I would have preferred that the original Fulbright amendment might have been accepted without any qualification, and I join with the expression that has just been made by the Senator from Kentucky in that regard. But in view of the interpretation laid upon the qualification, the very restrictive scope given it, I think that I can support the conference report when it is brought before the Senate later this evening.

I should like to conclude, Mr. President, by saying that this prolonged effort to restore to the Senate its intended constitutional role in foreign affairs would never have occurred but for the leadership of the Senator from Arkansas (Mr. FULBRIGHT). It was he who first brought the Committee on Foreign Relations out from behind closed doors. It was he who held the series of public hearings which educated the Nation on the nature of this war and demonstrated that outstanding American citizens of unquestioned patriotism had cause to oppose the war for reasons that they felt were intimately related to the best interests of this country.

It was he who brought the commitments resolution to the floor of the Senate and secured its passage here. Throughout the whole period, it has been the Senator from Arkansas who has sought, more than any other Member in this Chamber, to restore to the Senate its rightful place in fashioning the foreign policy of the United States.

So I want to pay tribute to him tonight, as we reach what I think is a very historic milestone in that lengthy and legitimate effort. Without his leadership, it could not have happened.

(This marks the end of the colloquy which occurred earlier in the day and which, by unanimous consent, was ordered to be printed in the RECORD at this point.)

Mr. JAVITS. Mr. President, I am sure that by now we all understand each other as to the reasons for the concerns in the Senate. If it had not been for the bad experience we had resulting from our voting for the Gulf of Tonkin resolution, without looking closely enough at its wording, I do not think we would be now looking so hard into the meaning of these words. But we had a President—and I do not in any way denigrate that President, because he was our President and he was within his prerogatives to do what he did—who carried around a faded copy of this document in his pocket, for years after its validity had probably passed. At least that was the apocryphal story. I do not think anyone can blame any of us for worrying and for taking every conceivable precaution to see that we are not embarrassed in the same way again.

I listened to the Senator from Louisiana very closely. The Senator very properly has defined and spelled out more clearly what we are contemplating in this much disputed proviso respecting what we are willing to fund with respect to the actions of Vietnamese or other free world forces in actions covered by the proviso.

The Senator has very carefully put that understanding on the same ground that the Senator from Mississippi (Mr. STENNIS) put it, which I thought was classic, in a rather famous exchange with Senator CHURCH on December 15. The Senator from Mississippi (Mr. STENNIS) said:

> It seems to me that the colloquy has made it clear that this language does not take any of the responsibility nor the power away from the President of the United States to do what he thinks is reasonably necessary, within reasonable limitations of time, in destroying arsenals, armories, armies, or anything else that is in close proximity to our borders, which we have designated by the general term "sanctuaries," as in the past.

Someone might later claim that this proviso would support funding the Vietnamese troops in an invasion or ground interdiction of the Ho Chi Minh Trail in Laos. That would be quite an operation. There have been press rumors that such plans are contemplated by some people. Theoretically as a lawyer I could claim support for such a far out undertaking under these words if it were not for the colloquy we have had here on these understandings. I do think that the Senator from Louisiana and this colloquy have now made it crystal clear that such a thing would not come at all within our understanding and intent. We understand that what is referred to is really conditioned by the parameters established by Senator STENNIS, the fact that it is apportioned to need, that a sanctuary action is reasonably necessary, and that it is apportioned to a limited period of time. Senator STENNIS used the words "reasonable limitations of time." We are talking about relatively short periods of time; and we are talking about close proximity to where our troops are deployed in South Vietnam. It relates to actions having direct relationship to the safeguarding of our own troops.

Mr. President, we have had unsatisfactory experience with the results of trying to control the executive in war actions by power of the purse.

As a Senator, I will vote for this conference report because to do otherwise would I believe really tax the American system, and tax it in a way which I cannot conceive of its being strained, when the men who are the conferees and are the heads of responsible committees, and those Members who have the deepest concerns and who are in agreement with each other as to the true meaning and the true purpose we have in mind. I would therefore consider my affirmative vote to be a change of position which, in my judgment, would lock in our reliance upon these understandings established in colloquy because of any question about our colleagues here in the Senate.

I assure this to the Senator from Louisiana and the Senator from Mississippi, for I think any Member of the Senate would stake his life on their honor. But we do need them when there may be a temptation by officials outside this chamber to seek authority which we know does not exist but which someone may try to find. When one tries to do something, he will always try to find a lawyer to tell him how he can do it and not what cannot be done.

I am going to vote for the conference report on the basis of the understandings and agreements we have put together in debate. It is a change of position for me and others, in placing reliance upon that basis. I cannot conceive and I hope it would never happen in our country that any executive or executive agent, cabinet officer, or others would seek to do other than the clear intention we express in this appropriation which is so big it "boggles" the imagination.

Mr. STENNIS. Mr. President, I will be brief.

I wish to express my great satisfaction in the way this matter has turned out. This bill and its prodecessors have been before the Senate and our committees for 12 months. I think this is a final solution that resolves the consensus of opinion. I am happy that those on the other side, if I may use that term, see a foundation for coming together.

I want to make clear, though, that we must leave that authority with the President to act in the circumstances as outlined by the Senator from New York with reference to Vietnamization, the protection of our troops, or the invasion, reinvasion, or incursion, whatever the Senator might call it, of Cambodia, if reasonably necessary to carry out the protection and the drawdown, which has many problems.

I do not predict by any means that those problems are over. I am also interested in keeping the responsibilities in the President. I have warned on this all the time. Let us give him the authority and keep the responsibility on him. He is the Commander in Chief and the chosen man in our process of election. I want to be sure he has that authority and I believe he does under this bill. I want to be certain he has the responsibility. Certainly, we do not have it; no one else in the Government has it. He has to carry that responsibility along with the authority.

I think we owe a debt of gratitude to the Senator from Louisiana and the Senator from North Dakota. They took the lead in this matter and they worked on this in an honest and sincere conference, and I think we are in safe hands.

I believe the President, when he has analyzed this, will be satisfied.

I want to add one more point. The Senator from North Dakota talked about the reductions in the budget, and these are sizable reductions; but I am certain in my mind we have not cut any of the bone or muscle out of the necessary preparedness or necessary military program for fiscal year 1971.

I express great joy as a Senator that we are going to get this bill passed during this calendar year rather than to have to carry it over into another Congress and proceed without a continuing resolution, which is a bad habit we have gotten into.

I hope that next year, before the fiscal year is over a month old, maybe we can have this bill in final form and get back to the fiscal year and have things more orderly and better understood.

Mr. JAVITS. Mr. President, will the Senator yield to me for one brief observation?

Mr. STENNIS. I yield.

Mr. JAVITS. First, I see no inconsistency whatever in anything the Senator said. I think the faith I expressed is completely compatible with responsibility in the President. Second, and a very important point to me and other colleagues, I do not think people like me exclude any operation, even invasion of the Ho Chi Minh Trail. All we say is, "Mr. President, if that is where you want to go, come to us and let us bear our constitutional right and responsibility, as well." It is important we make clear we exclude nothing. The only difference is we say we do not feel the President can do such things on his own. That is an important distinction.

Mr. STENNIS. I thank the Senator.

Mr. CHURCH. Mr. President, I previously mentioned in earlier colloquy that is included in the RECORD that I think this is a very important occasion for the Senate. This is a very large bill also in terms of the money involved.

Therefore, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. STENNIS. Mr. President, I wish to point out that our colleague, the distinguished Senator from Georgia (Mr. RUSSELL), formerly chairman of the Committee on Armed Services and now the chairman of the Subcommittee on Appropriations, is absent. Since this report, I have not had a chance to communicate with him, but I know he approves what is being done here tonight. He has played such a major part and has been such a guiding hand in years past. Even this year his hand is in the authorization bill. We appreciate what he has done.

Mr. HOLLAND. Mr. President, I wish to ask one question of the Senator from Louisiana. Am I correct in my understanding that the bill about to be agreed to is now under the budget for the military department?

Mr. ELLENDER. Yes, by $2,149,729,000.

Mr. HOLLAND. I warmly commend the distinguished Senator and his associates.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

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

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Connecticut (Mr. DODD), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Michigan (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Illinois (Mr. STEVENSON), the Senator from Georgia (Mr. TALMADGE), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. BURDICK) and the Senator from Illinois (Mr. STEVENSON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from Texas (Mr. TOWER), and the Senator from Delaware (Mr. WILLIAMS) are necessarily absent.

The Senator from Colorado (Mr. DOMINICK) and the Senator from South Dakota (Mr. MUNDT) are absent because of illness.

The Senator from Colorado (Mr. ALLOTT) is detained on official business.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Texas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 70, nays 2, as follows:

[No. 457 Leg.]

YEAS—70

Aiken	Griffin	Muskie
Allen	Gurney	Packwood
Baker	Hansen	Pastore
Bayh	Harris	Pearson
Bellmon	Hartke	Pell
Bennett	Holland	Percy
Bible	Hruska	Prouty
Boggs	Hughes	Proxmire
Brooke	Jackson	Randolph
Byrd, Va.	Javits	Saxbe
Byrd, W. Va.	Jordan, N.C.	Schweiker
Cannon	Jordan, Idaho	Scott
Case	Kennedy	Smith
Church	Long	Sparkman
Cook	Magnuson	Spong
Cooper	Mansfield	Stennis
Cotton	Mathias	Stevens
Cranston	McClellan	Symington
Curtis	McGee	Thurmond
Dole	McIntyre	Williams, N.J.
Ellender	Metcalf	Yarborough
Ervin	Miller	Young, N. Dak.
Fannin	Mondale	
Gravel	Murphy	

NAYS—2

Goodell	Gore

NOT VOTING—28

Allott	Hart	Ribicoff
Anderson	Hatfield	Russell
Burdick	Hollings	Stevenson
Dodd	Inouye	Talmadge
Dominick	McCarthy	Tower
Eagleton	McGovern	Tydings
Eastland	Montoya	Williams, Del.
Fong	Moss	Young, Ohio
Fulbright	Mundt	
Goldwater	Nelson	

So the conference report was agreed to.

The PRESIDING OFFICER. The amendments in disagreement will be stated.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: $2,908,500,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 26 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: $3,219,300,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum proposed, insert: $1,338,700,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 49 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert:

"SEC. 836. Upon determination by the Secretary of Defense that such action is neces-

sary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $600,000,000 of the appropriations contained in this Act between such appropriations, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: Provided, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted, insert:

"SEC. 842. (a) Appropriations heretofore made available for Procurement of Equipment and Missiles, Army; Procurement of Aircraft and Missiles, Navy; Other Procurement, Navy; Procurement, Marine Corps; Aircraft Procurement, Air Force; Missile Procurement, Air Force; Other Procurement, Air Force; Procurement, Defense Agencies; and Special Foreign Currency Program shall not be available for obligation after June 30, 1973. Appropriations heretofore made available for Shipbuilding and Conversion, Navy, shall not be available for obligation after June 30, 1975. Appropriations heretofore made available under the headings Research, Development, Test, and Evaluation, Army; Research, Development, Test, and Evaluation, Navy; Research, Development, Test, and Evaluation, Air Force; and Research, Development, Test, and Evaluation, Defense Agencies shall not be available for obligation after June 30, 1972. Each such appropriation shall be merged with and shall be available for the same time period as appropriations made in this Act under the same head.

"(b) Section 642 of the Department of Defense Appropriation Act, 1970 (Public Law 91-171, approved December 29, 1969), in hereby repealed."

Mr. ELLENDER. Mr. President, I move that the Senate concur in the amendments of the House to Senate amendments numbered 14, 26, 31, 49, and 53.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana.

The motion was agreed to.

Mr. ELLENDER. Mr. President, I ask unanimous consent to have included in the RECORD at this point a tabulation giving the 1970 appropriation, budget estimate, House allowance, Senate allowance, and conference allowance on each appropriation included in the bill.

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

DEPARTMENT OF DEFENSE APPROPRIATION BILL, FISCAL YEAR 1971 (H.R. 91-19590)

Item	1970 appropriation	Fiscal year 1971 budget estimate	House allowance	Senate allowance	Conference agreement	Increase (+) or decrease (−) conference agreement compared with— 1970 appropriation	Fiscal year 1971 budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Title I—Military personnel.									
Military personnel:									
Army	$8,875,391,000	$7,923,700,000	$7,822,450,000	$7,861,750,000	$7,842,450,000	−$1,032,941,000	−$81,250,000	+$20,000,000	−$19,300,000
Navy	4,858,531,000	4,402,300,000	4,360,100,000	4,377,100,000	4,368,600,000	−489,931,000	−33,700,000	+8,500,000	−8,500,000
Marine Corps	1,649,952,000	1,494,200,000	1,422,700,000	1,430,600,000	1,426,700,000	−223,252,000	−67,500,000	+4,000,000	−3,900,000
Air Force	6,498,189,000	6,096,000,000	5,973,350,000	6,002,425,000	5,988,350,000	−509,839,000	−107,650,000	+15,000,000	−14,075,000
Reserve personnel:									
Army	338,725,000	336,500,000	334,750,000	334,750,000	334,750,000	−3,975,000	−1,750,000	----------	----------
Navy	141,935,000	144,200,000	142,100,000	142,100,000	142,100,000	+165,000	−2,100,000	----------	----------
Marine Corps	49,000,000	54,100,000	52,050,000	52,050,000	52,050,000	+3,050,000	−2,050,000	----------	----------
Air Force	82,092,922	86,200,000	86,200,000	84,200,000	85,200,000	+3,107,078	−1,000,000	−1,000,000	+1,000,000
National Guard personnel:									
Army	403,403,895	387,100,000	387,100,000	387,100,000	387,100,000	−16,303,895	----------	----------	----------
Air Force	110,694,676	108,500,000	108,500,000	106,500,000	107,500,000	−3,194,676	−1,000,000	−1,000,000	+1,000,000
Total	23,007,914,493	21,032,800,000	20,689,300,000	20,778,575,000	20,734,800,000	−2,273,114,493	−298,000,000	+45,500,000	−43,775,000
Title II—Retired military personnel: Retired pay defense	2,859,000,000	3,194,000,000	3,194,000,000	3,194,000,000	3,194,000,000	+335,000,000	----------	----------	----------
Title III—Operation and maintenance:									
Operation and maintenance:									
Army	7,467,751,079	6,332,000,000	6,269,011,000	6,228,687,000	6,268,687,000	−1,199,064,079	−63,313,000	−324,000	+40,000,000
Navy	5,242,824,000	4,804,000,000	4,731,910,000	4,685,410,000	4,729,410,000	−513,414,000	−74,590,000	−2,500,000	+44,000,000
Marine Corps	428,458,120	356,600,000	399,943,000	402,743,000	402,743,000	−25,715,120	+46,143,000	+2,800,000	----------
Air Force	6,530,100,000	6,176,500,000	6,167,136,000	6,093,236,000	6,157,136,000	−372,964,000	−19,364,000	−10,000,000	+63,900,000
Defense agencies	1,160,866,907	1,162,100,000	1,125,750,000	1,125,750,000	1,125,750,000	−35,116,907	−36,350,000	----------	----------
Army National Guard	315,003,601	287,400,000	287,400,000	287,400,000	287,400,000	−27,603,601	----------	----------	----------
Air National Guard	345,201,780	343,600,000	337,600,000	343,600,000	343,600,000	−1,601,780	----------	+6,000,000	----------
National Board for the Promotion of Rifle Practice, Army	54,008	65,000	100,000	65,000	100,000	+45,992	+35,000	----------	+35,000
Claims, Defense	39,000,000	39,000,000	39,000,000	39,000,000	39,000,000	----------	----------	----------	----------
Contingencies, Defense	5,000,000	10,000,000	5,000,000	5,000,000	5,000,000	----------	−5,000,000	----------	----------
Court of Military Appeals	736,000	780,000	780,000	780,000	780,000	+44,000	----------	----------	----------
Total	21,534,995,495	19,512,045,000	19,363,630,000	19,211,671,000	19,359,606,000	−2,175,389,495	−152,439,000	−4,024,000	+147,935,000
Title IV—Procurement:									
Procurement of equipment and missiles, Army	4,259,329,911	[1] 3,226,000,000	2,933,100,000	2,930,000,000	2,908,500,000	−1,350,829,911	−317,500,000	−24,600,000	−21,500,000
Procurement of aircraft and missiles, Navy	2,621,705,547	[2] 3,427,700,000	3,005,800,000	3,127,900,000	3,017,900,000	+396,194,453	−409,800,000	+12,100,000	−110,000,000
Shipbuilding and conversion, Navy	2,495,899,014	[3] 2,578,900,000	2,694,400,000	2,276,900,000	2,465,400,000	−30,499,014	−113,500,000	−229,000,000	+188,500,000
Other procurement, Navy	1,488,890,990	[4] 1,541,400,000	1,443,400,000	1,487,300,000	1,487,300,000	−1,590,990	−54,100,000	+43,900,000	----------
Procurement, Marine Corps	500,848,000	[5] 200,000,000	171,700,000	175,900,000	175,900,000	−324,948,000	−24,100,000	+4,200,000	----------
Aircraft procurement, Air Force	3,405,800,000	[6] 3,314,900,000	3,203,000,000	3,201,300,000	3,219,300,000	−186,500,000	−95,600,000	+16,300,000	+18,000,000
Missile procurement, Air Force	1,448,100,000	[7] 1,530,600,000	1,372,300,000	1,380,400,000	1,377,200,000	−70,900,000	−153,400,000	+4,900,000	−3,200,000
Other procurement, Air Force	1,576,200,000	[8] 1,489,600,000	1,381,200,000	1,345,100,000	1,338,700,000	−237,500,000	−150,900,000	−42,500,000	−6,400,000
Procurement, Defense agencies	61,600,000	49,500,000	38,910,000	45,310,000	38,910,000	−22,690,000	−10,590,000	----------	−6,400,000
Total	17,858,373,462	17,358,600,000	16,243,810,000	+15,970,110,000	16,029,110,000	−1,829,263,462	−1,329,490,000	−214,700,000	+59,000,000
Title V—Research, development, test, and evaluation:									
Research, development, test, and evaluation:									
Army	1,608,282,908	[9] 1,717,900,000	1,608,500,000	1,589,700,000	1,600,200,000	−8,082,908	−117,700,000	−8,300,000	+10,500,000
Navy	2,203,660,000	[10] 2,197,300,000	2,156,200,000	2,130,500,000	2,137,900,000	−65,760,000	−59,400,000	−18,300,000	+7,400,000
Air Force	3,069,053,300	[11] 2,909,700,000	2,701,100,000	2,744,800,000	2,744,100,000	−324,953,300	−165,600,000	+43,000,000	−700,000
Defense agencies	450,752,486	[12] 470,700,000	438,900,000	445,100,000	443,600,000	−7,152,486	−27,100,000	+4,700,000	−1,500,000
Emergency fund, Defense	75,000,000	50,000,000	50,000,000	50,000,000	50,000,000	−25,000,000	----------	----------	----------
Total	7,406,748,694	7,345,600,000	6,954,700,000	6,960,100,000	6,975,800,000	−430,948,694	−369,800,000	+21,100,000	+15,700,000

Footnotes at end of table.

DEPARTMENT OF DEFENSE APPROPRIATION BILL, FISCAL YEAR 1971 (H.R. 91-19590)—Continued

Item	1970 appropriation	Fiscal year 1971 budget estimate	House allowance	Senate allowance	Conference agreement	Increase (+) or decrease (−) conference agreement compared with— 1970 appropriation	Fiscal year 1971 budget estimate	House allowance	Senate allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Title VI—Combat readiness, South Vietnam forces, Defense		$300,000,000	$358,500,000	$300,000,000	$300,000,000	$300,000,000	.....	$58,500,000	.....
Title VII—Special foreign currency program		2,621,000	2,621,000	2,621,000	2,621,000	+2,621,000	.....	.....	.....
Total, Department of Defense appropriation bill	72,667,032,144	68,745,666,000	66,806,561,000	66,417,077,000	66,595,937,000	−6,071,095,144	−2,149,729,000	−210,624,000	+178,860,000

[1] Procurement of equipment and missiles, Army, $25,000,000.
[2] Procurement of aircraft and missiles, Navy, $43,000,000.
[3] Shipbuilding and conversion, Navy, $150,000,000.
[4] Other procurement, Navy, $18,000,000.
[5] Procurement, Marine Corps, $5,000,000.
[6] Aircraft procurem nt, Air Force, $59,400,000.
[7] Missile procurement, Air Force, $14,000,000.
[8] Other procurement, Air Force, $14,000,000.
[9] Research, development, test, and evaluation, Army, $18,000,000.
[10] Research, development, test, and evaluation, Navy, $15,000,000.
[11] Research, development, test, and evaluation, Air Force, $18,000,000.
[12] Research, development, test, and evaluation, Defense agencies, $5,000,000.

Note.—Does not include the following amounts that were proposed for rescission (prior year balances) but were included in budget estimate to fund fiscal year 1971 programs.

Mr. ELLENDER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. YOUNG of North Dakota. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SURVIVOR ANNUITIES OF CIVIL SERVICE RETIREES—STATEMENT OF POSITION ON VOTE

Mr. YARBOROUGH. Mr. President, I desire the RECORD to show that had I been present and voting at the time of the Senate's consideration of S. 437, containing an increase for the retirement benefits of former Presidents of the United States, I would have voted "yea." At that time I was attending another meeting and was called by telephone and told that voting was in progress. I arrived 2 minutes after the vote was over. I have a statement in connection with that measure and I ask unanimous consent that my statement be printed in the RECORD.

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

STATEMENT BY SENATOR YARBOROUGH ON S. 437—SURVIVOR ANNUITIES OF CIVIL SERVICE RETIREES

Mr. President, the bill we are considering today contains a provision for increasing the retirement benefits of former Presidents of the United States which in my opinion is long overdue. Prior to 1958, this country provided no retirement benefits whatsoever for the men who had led our nation by serving in the highest elected office. In 1958, we wisely passed the first presidential retirement bill which provided each former President with a pension of $25,000 a year and also provided a $10,000 a year for the widows of former Presidents. The presidential retirement pension was based on the principal that a former President should receive a pension equal to the salary paid to a Cabinet officer. In 1958, Cabinet officers were authorized a salary of $25,000 a year.

The purpose of the presidential pension was to assist our former Presidents in conducting the many public duties which are imposed on them as a result of having served our nation. Regardless of the fact that a former President may no longer be in the White House, the responsibilities to this nation do not end. On the contrary, he becomes a servant of the public for the rest of his life and is expected to fulfill many duties, most of which are performed without compensation.

Since we as a people impose such heavy burdens on our Presidents, it is only fair and reasonable that we furnish them with the means necessary to accomplish these tasks. The pension for former Presidents has not been raised since 1958 despite the fact that the salary of Cabinet officers has increased to $60,000 a year and presidential staff assistants can now earn up to $42,500 a year. In face of the rising cost of living during the last 12 years, it is time that we increase these pensions of Presidents to at least the same level as salaries of active Cabinet officers.

This bill will accomplish this purpose by authorizing a pension for former Presidents of $60,000 a year and also providing an increase in the pension for widows of former Presidents based on the same formula as is presently used to calculate the pension for widows of all civil servants. The costs of these increases are quite small and the justifications for them are many. Therefore, I urge all my colleagues to give unanimous approval to this bill, and by so doing show our former Presidents that we are grateful for their great sacrifice for the good of this country.

TRIBUTE TO SENATOR GORE

Mr. BAKER. Mr. President, as the 91st Congress draws to a close, I want to take this brief opportunity to pay sincere tribute to my distinguished senior colleague from Tennessee (Mr. GORE).

Like all Members of this body, ALBERT and I are strong believers in adversary politics and in a strong, competitive, two-party system. In keeping with that belief, he and I have often been at odds, both within our State and within the national legislature. Often our philosophical and political judgments have differed significantly and, not infrequently, our views of what our mutual constituency desired have been divergent.

However, this competition has been amicable at all times. I have always maintained a high and effortless respect for the competence, diligence, forthrightness, honesty, and integrity of my colleague. I value highly my friendship with Senator GORE and look forward to enjoying it for many years to come.

ALBERT and his lovely, talented wife Pauline have been a great asset to my State and to our Nation. I wish them the best of luck and continued happiness.

The PRESIDING OFFICER. What is the will of the Senate?

ALLOCATION OF TIME FOR TRIBUTES TO SENATOR GOODELL

Mr. KENNEDY. Mr. President, as I understand, there has been time allocated to the distinguished Senator from New York (Mr. GOODELL) on Thursday morning, a period of some 20 minutes; am I correct in that understanding?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask unanimous consent that there be an additional 40 minutes allocated so that there will be an opportunity for Senators to pay tribute to the distinguished Senator from New York, the time to be controlled by the senior Senator from New York (Mr. JAVITS).

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

Mr. KENNEDY. So that, in all, there would be 20 minutes allocated to the distinguished junior Senator from New York, and in addition a total of 40 minutes for tributes, the time to be controlled by the senior Senator from New York.

The PRESIDING OFFICER. A total of 1 hour.

SENATOR STEVENS—CERTIFICATE OF ELECTION

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following certificate of election:

CERTIFICATE OF ELECTION FOR UNEXPIRED TERM

To the President of the Senate of the United States:

This is to certify that on the 3rd day of November, 1970, Theodore (Ted) F. Stevens was duly chosen by the qualified electors of the State of Alaska a Senator for the unexpired term ending at noon on the 3rd day of January, 1972, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of E. L. (Bob) Bartlett.

Witness: His excellency our governor, and our seal hereto affixed at Juneau this 4th

day of December, in the year of our Lord 1970.

By the governor:

KEITH H. MILLER,
Governor.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF NATIONAL FOREST RESERVATION COMMISSION

A letter from the Secretary of the Army, President, National Forest Reservation Commission, transmitting, pursuant to law, a report of that Commission, for the fiscal year ending June 30, 1970 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON ACTIVITIES OF THE UNITED STATES TRAVEL SERVICE

A letter from the Secretary of Commerce, transmitting pursuant to law, a report on the activities of the U.S. Travel Service, for the calendar year 1969 (with an accompanying report); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Effectiveness of Revised Procedures, Implementing the Truth-in-Negotiations Act, Department of Defense, dated December 29, 1970 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on Improvements Needed in Evaluating Design Requirements for Construction and Modernization of Veterans' Administration Hospitals, dated December 29, 1970 (with an accompanying report); to the Committee on Government Operations.

REPORT ON STATUS OF THE COLORADO RIVER STORAGE PROJECT AND PARTICIPATING PROJECTS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report on the status of the Colorado River storage project and participating projects, for the fiscal year 1970 (with an accompanying report); to the Committee on Interior and Insular Affairs.

PETITION

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the petition of Martin S. Malinou, to void the September 15, 1970, Democratic Party primary nomination and November 3, 1970, election of U.S. Senator in the State of Rhode Island, which was referred to the Committee on Rules and Administration.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPONG, from the Committee on the District of Columbia, with amendments:

H.R. 9551. An act to amend the act of July 11, 1947, to authorize members of the District of Columbia Fire Department, the U.S. Park Police force, and the White House Police force to participate in the Metropolitan Police Department Band, and for other purposes (Rept. No. 91-1519).

REPORT ENTITLED "OLDER AMERICANS AND TRANSPORTATION: A CRISIS IN MOBILITY"—REPORT OF SPECIAL COMMITTEE ON AGING (S. REPT. NO. 91-1520)

Mr. WILLIAMS of New Jersey. Mr. President, I submit a report from the Senate Special Committee on Aging entitled "Older Americans and Transportation: A Crisis in Mobility."

The PRESIDING OFFICER (Mr. FANNIN). The report will be received and printed.

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of nominations was submitted:

By Mr. MAGNUSON, from the Committee on Commerce:

Frank S. Besson, Jr., of Virginia; Arthur D. Lewis, of Connecticut; David E. Bradshaw, of Illinois; Charles Luna, of Ohio; John J. Gilhooley, of New York; Catherine May, of Washington; David Walbridge Kendall, of Michigan; and John P. Olsson, of Connecticut, to be incorporators of the National Railroad Passenger Corporation.

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 4604. A bill to amend the Gun Control Act of 1968 to provide for certain exceptions for persons who test firearms; to the Committee on the Judiciary.

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

By Mr. SCHWEIKER:

S. 4605. A bill for the relief of Fritz Bernt Johannesen and Grethe Johannesen; to the Committee on the Judiciary.

S. 4604—INTRODUCTION OF A BILL TO PROVIDE FOR CERTAIN EXCEPTIONS FOR PERSONS WHO TEST FIREARMS

THE "OUTDOOR WRITER" AND THE GUN CRIME ACT OF 1968

Mr. MANSFIELD. Mr. President, I introduce a bill and ask for its appropriate reference. This bill would, in my judgment, correct a serious inequity that has arisen with respect to the gun crime law of 1968. It is really of a technical nature and would permit bona fide writers for sporting journals and magazines to be exempt from the transportation provisions of the gun law—the provisions that cover the shipment of firearms.

The Secretary of the Treasury would be authorized to issue regulations that would carefully limit this exception. This group of professionals seek firearms to test them and then to reduce to writing their impressions of the weapon's technical performance for publication in sporting magazines or journals. That is all. The Secretary of the Treasury is empowered to issue regulations requiring that the individual establish that he is a bona fide member of this category, that he is legitimately employed in this occupation or profession, that his interest in obtaining a weapon is based solely upon a twofold professional objective: The testing of the firearm and the writing of the results for publication. The Secretary would make certain as well that the disposition of any such firearm is carefully controlled.

I should point out that just as a particular hardship exists for legitimate collectors, certain Army personnel and others under the gun law for which special consideration was provided, so, too, has an unjust burden been placed upon the special category of professionals known as the outdoor writer for which consideration should be given. In large part, his livelihood is dependent greatly upon his ready access to weapons and it is for this reason that I seek here to modify the law. I understand that only about 500 to 1,000 such persons exist in this category all across the land.

In this regard, the plight of the outdoor writer was brought to my attention by Mr. Norman Strung, a member of the Outdoor Writers Association. I think his case, and the case of all those who share his particular professional endeavor, was stated clearly and convincingly in his letter to me of September 14, 1970. I quote from that letter:

> I don't want to compete with local gun dealers who have to make a living through sales, and who have a great deal of overhead tied up in their places of business. In other words, I think I have a perfectly legitimate reason to have a firearms permit, yet that permit was denied me. As a result, my job as an outdoor writer is just a little tougher, and will prove a lot more expensive. That sir, seems to be unfair and inequitable "gun control" . . . hardly in the interest of public safety, and detrimental to my legitimate business and the gun-owning public.

Mr. President, I agree with that statement. I hope to correct this inequity with this bill and when the new Congress convenes next month I shall again introduce it and press for its passage.

The ACTING PRESIDENT pro tempore (Mr. ALLEN). The bill will be received and appropriately referred.

The bill (S. 4604) to amend the Gun Control Act of 1968 to provide for certain exceptions for persons who test firearms, introduced by Mr. MANSFIELD, was received, read twice by its title, and referred to the Committee on the Judiciary.

SENATE RESOLUTION 499—SUBMISSION OF A RESOLUTION RELATING TO THE COMPENSATION OF CERTAIN SENATE EMPLOYEES

Mr. MANSFIELD (for himself and Mr. SCOTT) submitted a resolution (S. Res. 499) relating to the compensation of certain Senate employees, which was considered and agreed to.

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

SENATE RESOLUTION 500—SUBMISSION OF A RESOLUTION RELATIVE TO THE DEATH OF REPRESENTATIVE L. MENDEL RIVERS, OF SOUTH CAROLINA

Mr. THURMOND (for himself and Mr. HOLLINGS) submitted a resolution (S. Res. 500) relative to the death of Representative L. MENDEL RIVERS, of

South Carolina, which was considered and agreed to.

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

SENATE RESOLUTION 501—SUBMISSION OF A RESOLUTION CONCERNING THE CONTINUED INJUSTICES SUFFERED BY JEWISH CITIZENS OF THE SOVIET UNION

Mr. DOLE (for himself, Mr. MATHIAS, Mr. BELLMON, Mr. FANNIN, Mr. SCHWEIKER, Mr. SAXBE, Mr. BAKER, Mr. BOGGS, Mr. ALLOTT, Mr. BROOKE, Mr. CASE, Mr. GOODELL, Mr. HANSEN, Mr. GURNEY, Mr. COOK, Mr. JAVITS, Mr. PERCY, Mr. SCOTT, Mr. PEARSON, Mr. MILLER, Mr. PACKWOOD, Mr. MURPHY, Mr. STEVENS, Mr. RIBICOFF, Mr. PROXMIRE, Mr. BAYH, Mr. SYMINGTON, Mr. MCGOVERN, Mr. HART, Mr. CHURCH, Mr. MCGEE, Mr. JACKSON, Mr. MAGNUSON, Mr. GRIFFIN, Mr. MONDALE, Mr. HARTKE, Mr. KENNEDY, Mr. CRANSTON, Mr. THURMOND, and Mr. MUSKIE) submitted a resolution (S. Res. 501) concerning the continued injustices suffered by Jewish citizens of the Soviet Union, which was considered and agreed to.

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

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 463

Mr. MCCLELLAN. Mr. President, on September 16, 1970, I introduced Senate Resolution 463 urging the adoption of a national policy to reduce and to avoid many of the social and economic problems resulting from the excessive concentration of industry and population in our metropolitan areas. The proposed resolution calls upon the administration to give preference to those areas of our country which have a low concentration of population and industry in first, awarding Federal contracts for the purchase of equipment, goods, or services for use by any agency or department of the Federal Government; second, locating new or additional facilities of any agency or department of the Federal Government; and third, in administering or implementing new and existing Federal programs, particularly the multibillion-dollar Federal grant-in-aid programs.

I ask unanimous consent that two more Senators be added as cosponsors of Senate Resolution 463: Senator HOLLINGS and Senator RANDOLPH. That brings the total number of cosponsors to 38.

Mr. President, the list of cosponsors is almost evenly divided between the two parties, and I am indeed pleased and encouraged by the bipartisanship support of my colleagues. I have been equally encouraged by the pledged support of the White House and other officials of the administration.

I regret, however, that due to pressures of time, we have not been able to pursue this matter to the fullest extent. It is my intention to reintroduce this measure as early as possible in the 92d Congress and to hold hearings as soon thereafter as practicable. I sincerely hope that the measure will again receive the interest and support of the Senators who have cosponsored the resolution this year.

Mr. President, we have a national commitment to achieving a high standard of living for our people, decent housing, adequate food, good health, educational opportunities—and improving the quality of our environment. We must seek to provide these things for all the people—urban and rural. By encouraging new industries to locate in our sparsely populated rural regions, and existing industries to look to these areas when expanding, we could enhance and enrich the lives of all Americans wherever they are located. A policy of bringing jobs to the people in the countryside would act as a deterrent to those who might otherwise feel compelled to migrate to metropolitan areas in search of employment.

It is time to halt and reverse the present population trends, and give our urban areas—especially our decaying intercities—an opportunity to concentrate on restoration, while we revitalize our rural areas and develop their vast potential. The passage and implementation of my resolution will, I believe, contribute much to the realization of these objectives.

The PRESIDING OFFICER (Mr. CASE). Without objection, the names of the Senators will be added as cosponsors of the resolution.

EMERGENCY SCHOOL AID ACT OF 1970—AMENDMENTS

AMENDMENT NO. 1182

Mr. ERVIN submitted amendments, intended to be proposed by him, to the bill (H.R. 19446) to assist school districts to meet special problems incident to desegregation in elementary and secondary schools and to provide financial assistance to improve education in racially impacted areas, and for other purposes, which were ordered to lie on the table and to be printed.

TRIBUTE TO SENATOR TYDINGS

Mr. RANDOLPH. Mr. President, my years in the Senate, as a colleague with the Members of this body, has been enriched by the friendships here on the Hill.

JOE TYDINGS leaves this forum, and he does so with the affection of his fellows. I have valued the friendship of JOE. He has often visited the contiguous State of West Virginia—being with me on college campuses at Davis and Elkins and Salem. I have been with him in Maryland. A river, the Potomac, has separated our States, but there has always been a oneness between JOE and myself. He is a man of character—a really great legislator. His future will be a good one—because he will make it so. Good fortune, JOE.

ADDITIONAL STATEMENTS OF SENATORS

THE BATTLE IN VIETNAM KNOWN AS HAMBURGER HILL

Mr. THURMOND. Mr. President, the Members of the Senate will recall the battle in Vietnam referred to as Hamburger Hill which occurred in the Ashau Valley in May 1969. It was mentioned in these Chambers recently by a distinguished Member of the Senate.

Little has been said on the Senate floor regarding the facts of this battle. Because of my interest in this matter, I have made a review of that battle, and I believe it is appropriate to provide a factual account from the official records of the Department of the Army.

As a matter of background, the Ashau Valley has traditionally been used as a major infiltration route into South Vietnam by the North Vietnamese. It is from the Ashau Valley that the enemy has supported and launched most of his operations in the northern provinces of South Vietnam, particularly those operations aimed at the population centers of Hue and Da Nang. It was from here that the North Vietnamese Army launched their major offensive against Hue during Tet 1968 when such terrible damage was done to the city and an untold number of innocent civilians were murdered.

Intelligence gained during the spring of 1969 indicated that the NVA was again building up his forces and supplies in the Ashau Valley and in his safe sanctuaries just across the Laotian border from the Ashau. While the enemy could have done relatively little damage had he remained there, the indications were clear that his intentions were to move against Hue and the populated areas of Thua Thien Province, most of which had been completely resettled and was considered pacified. As early as March, the 101st Airborne Division engaged an NVA battalion already establishing positions about half-way between the Ashau Valley and Hue. A prisoner captured during that action indicated that his regiment had the mission of continuing to move to the east on Hue. To permit the NVA to launch any sort of operation, regardless of how small, would have resulted in a significant setback to the overall pacification effort in Thua Thien Province.

Accordingly, XXIV Corps initiated operations in the Ashau Valley to find and destroy the enemy forces before they developed the capability to launch an attack on the populated area. Allied forces participating in the Corps-directed operation, Apache Snow by name, included elements of the 101st Airborne Division and the 1st ARVN Division, who were assigned primary responsibility for finding and destroying the enemy in the Ashau Valley, with the 3d Marine Division operating farther to the north to block enemy efforts to withdraw from or reinforce into the northern Ashau.

The plan called for each of the participating battalions to search an assigned area which combined covered all of the area between the Northern Ashau Valley floor and the Laotian border. As the situation developed, the enemy was found in strength on Hill 937—military designation for Hamburger Hill—or as it is named by the Vietnamese, Dong Ap Bia, by elements of the 3d Battalion, 187th Infantry and the battle at Dong Ap Bia ensued.

I have taken the time to review this background because there are some who have questioned the wisdom of having committed U.S. forces against an enemy

located deep in the jungle where he could do no apparent damage. Based on the intelligence at the time, there were two options open: Wait until the enemy reached the populated area before engaging him, or attack the enemy in his base areas and eliminate his capability to mount a potentially damaging attack. I submit that the decision made to go after the enemy in his base areas was both timely and correct.

Mr. President, I would like to now review the battle at Hamburger Hill itself, an action which I believe has been unnecessarily criticized.

As I mentioned previously, the 3–187th Infantry, while searching its assigned area of responsibility made contact with the enemy on Dong Ap Bia. Some have chosen to classify the action which followed as "10 suicidal frontal assaults." A review of the after action reports will show that such was not the case at all. While the hill was attacked on 10 consecutive days, the attacks were conducted by different units attacking from different directions. In fact, once it was determined that the hill was occupied by a sizable enemy force, the hill was never again attacked from only one direction.

Every possible approach was used in defeating the enemy. During the first 2 days of the action, which was really a reconnaissance phase to find the enemy, it is true that one company of the 3–187th was pushing up a single ridge of Dong Ap Bia. However, by May 12 the battalion commander was convinced that he had found the enemy force and deployed three of his companies, each attacking on a different route, two companies from the northwest and one from the north in order to develop the situation. With each day of the operation these companies modified their direction of attack, consistent with the limitations imposed by the extremely rugged terrain, to provide the most advantageous approach to the enemy positions.

On May 15 an additional battalion, the 1–506th, was committed to the battle. This battalion, which had been operating to the south of Dong Ap Bia, turned toward the hill and began attacking from the southwest with three of its rifle companies maneuvering up the ridges which provided the most accessible approach. For the following 3 days, the 3–187th and the 1–506th, one attacking from the northwest and one from the southeast, made a determined effort to overpower the enemy but were unable to.

On May 18 the decision was made to reinforce the attack with two additional battalions, one of which was provided by the 1st ARVIN Division. These battalions were moved into attack positions northeast and southeast of the hill on May 19. And, on May 20, the day of the final assault, the hill was attacked by four battalions each attacking from a different direction, the northwest, northeast, southeast, and southwest, and the enemy was routed from his positions and was either killed or fled the area in panic to the safety of the Laotian border.

The enemy force at Hill 937, the 29th NVA Regiment, occupied an effective, well-conceived all-round defensive position consisting of concentric rows of mutually supporting bunkers. Under such conditions, where a determined enemy chooses to stand and fight, there is little alternative except to attack directly into his face literally routing him out bunker by bunker, while at the same time concentrating all available fire power on the enemy positions in support of the attacking infantryman. Such was the case at Dong Ap Bia.

Throughout this battle, day and night, the hill was continuously bombarded by tactical air strikes, artillery, mortars, and gunships in order to soften up the enemy positions. Various types of ordnance, including 500- and 1,000-pound bombs, napalm, artillery of all types, and tear gas were used in an attempt to dislodge the enemy from his well-constructed bunkers, many of which withstood direct hits by bombs and heavy artillery. As was proven in both World War II and Korea, firepower alone will not rout an enemy from a fortified position. Infantrymen attacking on the ground, no matter how objectionable that might seem, is the only effective way to defeat such a force. As a matter of interest, during the period May 10 to 22 approximately 3.5 million pounds of ordnance were placed on Hill 937.

I submit that this battle was a significant victory, not a suicidal attack. The results achieved seem to be clear in this regard. Not only was a major enemy force prevented from attacking a populated and resettled area of South Vietnam, it was eliminated as a force to contend with for months to come, having lost 80 percent of its strength during that battle. The NVA lost 630 men at Dong Ap Bia compared to 56 U.S. soldiers killed in action for a ratio of 10 to 1.

Now as to the significance of Hill 937. Some have suggested that no sooner was it seized than it was abandoned. Except for the fact that the enemy was found there, Hill 937 was of no tactical significance. Our forces operating in the Ashau Valley were oriented on finding and destroying the enemy wherever he might be and not on seizing and holding terrain. Thus, once the enemy at Hill 937 was defeated, there was no reason to permanently station U.S. forces there. The hill was temporarily occupied following the battle for the purpose of clearing a helicopter landing zone on top of the hill to facilitate future operations in the Ashau Valley. A tank trail was also cleared from the valley floor to the top of the hill for the same purpose. While this engineer effort was going on, an infantry unit remained on the hill to provide security. However, it was never the intention that U.S. forces remain there on an extended basis.

The commanding general of the 101st Airborne Division at the time of this operation was Maj. Gen. Melvin Zais, now a lieutenant general, an officer with a most distinguished record. It was he who had to evaluate the situation and make the determination whether or not to continue the attack up the ridges of Dong Ap Bia in the face of a determined enemy. I can assure you that it was only after a thorough review of all the risks involved that General Zais decided not to turn his back on the enemy. While he never lost sight of his mission, his primary concern in reaching that decision was the safety and welfare of his own men; he did not want to expose them to any unnecessary risks.

There has been some implication that General Zais had selfish motives in mind when he made that decision. Nothing could be further from the truth. As a matter of fact, he had already been notified of his selection for promotion to lieutenant general even before the operation was initiated so he had nothing to gain in that regard. Under the command of General Zais, the 101st Airborne Division was highly successful in eliminating the Vietcong from the critical province of Thua Thien and in achieving and maintaining conditions favorable to complete pacification and resettlement. It was his very strong conviction in the absolute necessity to maintain this condition of security within Thua Thien Province, and to protect the population, that led General Zais to pursue the enemy at Dong Ap Bia.

Throughout his career, General Zais' actions have been guided by his deep and abiding concern for his men. Anyone who has served under him is quick to point out that nothing is more important to him than taking care of his men. Such was the case at Dong Ap Bia. From the very beginning until the last assault on May 20, General Zais was there observing the action either from his helicopter or on the ground gaining a firsthand view of the problems and hardships of the men and, in one case, was, himself, subjected to enemy mortar fire. He personally followed every development to insure that each plan of attack was the best possible approach, that no attack was made without all available fire support first being directed against the enemy positions, and that nothing was done to unnecessarily endanger the lives of his men.

I might point out that General Zais viewed the action in the Ashau Valley not only from the eyes of a division commander but also from the eyes of a concerned father, for his son was at the same time a captain serving as an adviser to one of the ARVN battalions participating in the operation.

From my own observations, and based on the evaluation of others in positions to know, General Zais was, without question, an outstanding division commander both in terms of mission accomplishment and as a leader and was eminently qualified for promotion to three-star rank. Lt. Gen. Richard G. Stilwell, then Commanding General, XXIV Corps, perhaps summarized General Zais' performance best. He said in part:

General Zais is a magnificent Division Commander. He exudes leadership through every pore. His tremendous professionalism, his devotion to and articulation of the US military tradition, his rejection of anything less than a superior product, his skill in blending challenge and incentive with compassion and tolerance, his consummate understanding of the American soldier—all these have combined to make "Lucky Eagle" the inspirational symbol of the 101st Airborne. To be sure, General Zais inherited a fine division; but under his stewardship, it has developed an elan, cohesion, responsiveness and combat worthiness that has few parallels in American military history. Those

qualities, plus unique capacity for combining with and stimulating the Vietnamese Military, coalesced to forge a record which, I submit, is without parallel: well-nigh complete pacification of the critical province of Thua Thien, within a year of the siege of Hue. No man could have done more.

On a subsequent occasion, Lieutenant Governor Stilwell stated:

Through 30 years of dedicated service—in and out of combat, as a commander and as a staff officer, on duty and off—General Zais has exemplified the finest values of the Profession of Arms. He has always possessed—more significantly, has steadily honed and strengthened—those rare qualities which distinguish the real leader from those who only follow. No individual within my ken has as profound a belief in the American soldier, as complete an understanding of the forces which shape and motivate that soldier, as consummate a skill in molding men into units of unsurpassed capability and esprit.

Not only was General Zais considered in high esteem by his superiors, but perhaps even more so by the thousands of men whom he was privileged to serve as their division commander. The sentiment of those men was reflected in a letter which General Zais received on his departure from the division. This was a letter signed on small scratches of paper by over 1,900 members of the 1st Brigade at their places of duty be it on a fire base or out in the jungle. The letter expressed their appreciation for the things which had been done for them and the treatment they had received under his command. The letter reads as follows:

Subject: Letter of appreciation.

Major General MELVIN ZAIS,
Commanding General, 101st Airborne Division.

1. Our commanders have represented us well on other occasions in speaking of our respect and confidence, however, we, the enlisted element of the distinguished First Brigade, wish to mention separately our appreciation in several specific areas.

2. Our stand-downs have become much more effective in refurbishing our communications equipment, weapons and other field gear, as well as providing us an opportunity to obtain clean clothing, identification tags and cards, etc., which have been lost or destroyed, and purchase comfort items from the PX. We understand and appreciate your personal interest in the facilities at Eagle Beach.

3. Your personal influence on the impact awards program was always felt, and we noted with great pride your many visits into areas which were not considered safe. The talks you made to us on these occasions will be long remembered by veteran and rookie alike. The initiation of the "Brave Eagle" medallion is an innovation from which the Division will continue to reap benefit for many years.

4. The inspiration and understanding provided us in your "Lucky Eagle Sez" comments in our newspaper will live with each of us and provide guidance as we move on to lead others in industry, public service, or the military.

5. Our deepest and most heartfelt thanks go to you for providing us (those of us who are away from the influence of home and family, or a closely supervised scholastic environment, for the first time in our lives) a unit environment in which we can obtain more effectively those attributes of character and frame of reference (during this most sensitive period of our lives) which will be meaningful to us, and perhaps even our Nation, in the future when we become its key citizens.

6. We do not see your coming promotion as an ending, but rather a time for rededication; for the principles of professionalism you have instilled in us will be perpetuated as we move toward a future "Rendezous With Destiny."

7. May the lives of you and your family be enriched because of your so very obvious dedication to us and our great Division.

All the way, sir!

In summary, Mr. President, this splendid officer has been vilified and misrepresented on numerous occasions based on a newspaper report. I only ask that in justice to this officer that my remarks reflect the true, official account of the battle. I ask unanimous consent for this detailed account of the battle at Dong Ap Bia based on information taken from the participating units' after action reports to be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

BACKGROUND

The battle at Dong Ap Bia (Hamburger Hill) occurred during Operation APACHE SNOW, a XXIV Corps directed operation in the Northern Ashau Valley. This operation was initiated on 10 May 1969 with the specific purpose of destroying North Vietnamese Army (NVA) and Viet Cong (VC) forces believed to be grouping in the Ashau Valley, blocking enemy routes of egress into Laos, interdicting enemy lines of communication and locating and destroying known enemy caches. Allied forces participating in the operation consisted of elements of the 101st Airborne Division, 3d Marine Division, and the 1st ARVN Division.

Since the battle at Dong Ap Bia, many people, both in and out of the government, have questioned the advisability of having conducted an operation deep in the mountainous jungle region and removed from the populated area of the country by several miles. Many apparently viewed the operation as being counter to US efforts to obtain a negotiated peace through the Paris peace talks, which were already underway, and contrary to the announced intention of the US government to reduce the level of its combat operations in South Vietnam. The explanation is simple.

The Ashau Valley has traditionally been used as a major infiltration route into South Vietnam by the NVA/VC. It is through and from the Ashau Valley that the enemy has supported and launched most of his operations in the northern provinces of South Vietnam, particularly those operations aimed at the population centers of Hue and DaNang. Enemy forces have habitually infiltrated through Laos and staged in safe sanctuaries just across the Laos/South Vietnam border from the Ashau Valley. Enemy supplies have likewise been infiltrated and stored in major supply "warehouses" both in the Ashau and in nearby base areas in Laos. The Ashau Valley provides accessible and reasonably easy routes for the subsequent movement of both men and materiel either south toward DaNang or east toward Hue. It was from here that the enemy launched and supported his offensive during Tet 1968 when they inflicted such terrible damage on the city of Hue and murdered an untold number of innocent civilians.

Intelligence gained during the spring of 1969 provided evidence of increased enemy activity in the Ashau Valley and adjoining areas in Laos. Aerial observers noted intensive building activity on the roads and trails leading in from Laos which were used for the movement of supplies and equipment. Despite heavy aerial interdiction efforts, it appeared certain that the NVA was moving materiel into the area. Intelligence sources also provided strong indications that elements of three NVA regiments were being infiltrated into the base area (Base Area 611) just west of the Ashau Valley.

As early as March, there was positive evidence that enemy forces were already beginning their movement toward Hue. On 12 March, elements of the 101st Airborne Division assaulted Fire Base Veghel, an old division fire base located about half-way between the Ashau Valley and Hue, which had not been occupied by allied forces for several months, and found that enemy forces occupied the base. The enemy had prepared excellent defensive positions and mined the base to counter an airmobile assault. An enemy prisoner captured during the exceptionally heavy fighting at and around Fire Base Veghel stated that he was from the 9th NVA Regiment which had the mission of continuing to move to the east on Hue. Subsequent operations conducted further to the west toward the Ashau encountered a full battalion, the 816th Battalion, of the 9th NVA Regiment. The discovery that an NVA regiment was already establishing carefully concealed and well developed positions along the route east from the Ashau toward Hue confirmed beyond any doubt the enemy's intentions; it was this exact pattern that he followed in mounting the offensive on Hue in 1968.

Knowing this, there were two alternatives open: one, ignore the presence of the enemy forces in the jungle and wait until he attacked Hue before engaging him; or two, attack the enemy force deep in the jungle in his base areas and eliminate his capability to mount an attack on the populated area. Rather than permit a substantial enemy force to reach the populated area of Thua Thien Province and Hue, which for all practical purposes had been completely pacified and resettled, the decision was made to launch a Corps level combat operation to deny the enemy re-entry into South Vietnam in strength from his sanctuary across the border from the Ashau Valley and to destroy those forces which had already been infiltrated. The 101st Airborne Division, in coordination with the 1st ARVN Division, was assigned the primary responsibility for conducting operations in the northern Ashau Valley while elements of the 3d Marine Division operated farther to the north with the mission of blocking enemy efforts to either withdraw from or reinforce into the northern Ashau.

Operation Apache Snow was initiated by a multi-battalion airmobile assault by three battalions of the 101st Airborne Division (1st Bn, 506 Inf; 3d Bn, 187th Inf; 2d Bn, 501st Inf) and one battalion of the 1st ARVN Division (4th Bn, 1st ARVN Regt) into carefully selected landing zones adjacent to the Laotion border. Each of the landing zones for the initial assault was selected based on the latest intelligence so as to achieve surprise and to place the assault troops into close proximity to suspected enemy locations while at the same time affording the maximum degree of security during the initial landing.

All preparations for this massive airmobile assault were completed by the evening of 9 May. Ten artillery batteries were in position at five different fire bases on the high ground east of the valley to provide maximum fire support for the initial airmobile assaults as well as the subsequent ground action by the infantry battalions. The maneuver battalions participating in the airmobile assault were assembled approximately eight miles east of the Ashau Valley, near Fire Base Blaze which had been established as a complete forward supply base to support Operation APACHE SNOW.

The airmobile assault of the four battalions began precisely at 0730 hours on the morning of 10 May. A total of 65 troop carrying helicopters (UHIH) were used for the combat assaults. This permitted two battalions to

be assaulted simultaneously thus placing the maximum combat power on the ground as rapidly as possible. The assault into each of the five landing zones used was preceded by a seventy minute tactical air and artillery bombardment to "soften it up"; final suppressive fires were provided by aerial rocket artillery and air cavalry gunships just seconds prior to the landing of the assault helicopters. Concurrent with the airmobile assault of the four battalions, two additional battalions of the 1st ARVN Division, which had been prepositioned on 9 May, began conducting reconnaissance in force and sweep operations northeast and south of the general area of the airmobile assaults. During the early afternoon, one additional ARVN infantry company secured a hill top in the northern end of the Ashau to protect an artillery battery which was brought in to support the airmobile assault of another ARVN battalion (2d Bn, 1st ARVN Regt) on 11 May. Thus, by the night of 10 May, six maneuver battalions (3–US and 3–ARVN) were operating in the Ashau Valley with a seventh battalion scheduled for insertion the following morning. Each of these battalions was assigned a separate area of operations in which to search out and destroy the enemy while at the same time being prepared to reinforce any other battalion should the situation require it. The battalions were not oriented on terrain or assigned the mission to take any particular hill; rather, they were oriented on the enemy and concerned primarily with locating and destroying his forces, supplies and installations wherever they might be found.

BATTLE AT DONG AP BIA

The area of operations assigned to the 3–187th Infantry included Dong Ap Bia, Hill 937, which later came to be referred to as Hamburger Hill by some. As part of his overall plan, the battalion commander, LTC Weldon Honeycutt, had selected Hill 937 as one of the areas to be searched following the airmobile assault since intelligence reports gathered in April and May indicated the possible presence of enemy forces in the vicinity of the hill. The battalion commander selected a landing zone approximately 1800 meters northwest of the hill near the Laotian border with the intention of moving southeast toward Hill 937.

May 10

At 0844 hours, the battalion began its combat assault into the selected landing zone. While the landing zone was relatively clear, partly because of the heavy tactical air and artillery pounding, the surrounding area, including Hill 937 and the ridges leading up to it, was covered with triple-canopy jungle and thick undergrowth which made movement over the steep slopes extremely slow and difficult even under the best of conditions. Visibility was likewise limited by the heavy bamboo and elephant grass.

After completion of the combat assault, which was unopposed, LTC Honeycutt, in order to develop the situation, sent A Company to the northwest, C Company to the southwest and D Company up the ridge to the southwest toward Hill 937; B Company was held as brigade reserve and did not join the remainder of the battalion until 1600 hours. By noon, D Company had secured some prominent terrain on the ridgeline leading up to Hill 937. It was from this key position, approximately 1000 meters to the northwest of Hill 937, that the battalion headquarters controlled and supported operations during the period 10–21 May. After joining the battalion, B Company passed through the battalion headquarters location and continued to move up the ridge toward Dong Ap Bia. The company had moved only a very short distance when they began to receive sniper fire followed by small arms fire and two rocket propelled grenades (RPG). They responded with their organic weapons and were supported by mortars, artillery, gunships and airstrikes. In this initial contact, the company suffered three wounded while killing four of the enemy. Gunships and airstrikes continued to pound the suspected enemy positions until darkness. A and C Companies, moving generally to the west toward the Laotian border, made no contact with the enemy during the day.

May 11

A and C Companies continued their reconnaissance in force operations to the northwest of Hill 937 toward the Laotian border where they made no contact with the enemy but did report finding trails with fresh tracks. D Company continued as the battalion reserve.

B Company initially searched the area of the previous day's contact and then, in the afternoon, resumed their movement up the ridge toward Dong Ap Bia. Suspected enemy bunker locations were pounded with artillery and airstrikes throughout the day. While following fresh tracks up the ridge, the company was fired on by a lone sniper and shortly thereafter was engaged by a well entrenched enemy force to their front. The enemy employed small arms, machineguns, RPGs and mortars; the 3–187th responded by calling in additional airstrikes and artillery and maneuvering against the enemy positions. Additional gunship and mortar support was also provided. B Company suffered several casualties in the contact and was forced to withdraw a short distance to regroup, leaving the wounded where they fell. The battalion commander immediately directed the company to increase its firepower and move up the hill to recover the wounded, which they did.

During the evacuation of these casualties, a helicopter gunship accompanying the medical evacuation helicopter inadvertently fired six rockets into the battalion command post position leaving one killed and 35 wounded, including the battalion commander. All of the wounded were subsequently evacuated, except for the battalion commander who elected to remain with his troops. In spite of this, the battalion headquarters continued to function effectively. After completing evacuation of the casualties, night defensive positions were established.

During their search of the enemy bunker complexes, B Company found several weapons, miscellaneous supplies and equipment, and evidence of a telephone communications system plus additional enemy soldiers killed by the artillery and airstrikes. One significant find was a group of enemy documents which identified the enemy force as being from the 29th NVA Regiment which, according to the documents, had only returned from North Vietnam in April. This information, plus the relatively heavy contact experienced during the day, provided the first indication that a sizable enemy force might be occupying Hill 937.

May 12

Realizing that he had found the enemy on Hill 937, although he was still unable to determine the size of the force, LTC Honeycutt decided to employ all of his companies to further develop the situation. A Company became the battalion reserve replacing D Company which moved out to the northeast turning toward Hill 937 later in the day. C Company turned around and began moving to the east to join B Company.

B Company continued to maneuver against the well disciplined enemy force which was dug in about 200 meters to their front. As on previous days, the hill was continually bombarded with airstrikes and artillery, including 500 and 1000 pound delayed fuse bombs and napalm, in an effort to dislodge the enemy from his fortified positions. The enemy held fast and throughout the day elements of the 3–187th continued to receive heavy automatic weapons and RPG fire interspersed with mortar fire. To aid in evacuating casualties and in resupply, LTC Honeycutt directed B Company to prepare a helicopter landing zone at their position. A helicopter inserting an engineer squad to assist in constructing the landing zone was hit by enemy fire causing it to crash and burn resulting in seven casualties.

By late afternoon, C Company had moved to a position approximately 200 meters south of B Company. The company dug in for the night, having made no significant enemy contact during the day.

The night was quiet. Artillery was placed on Hill 937 and its ridges throughout the night.

May 13

The situation remained relatively unchanged on 13 May. B and C Companies, now generally abreast but separated by approximately 200 meters, resumed their movement up Dong Ap Bia. Within 30 minutes both companies came under fire. As they had been since 10 May, fighters were overhead and airstrikes were immediately placed on the suspected enemy locations. D Company reconnoitering about 900 meters north of B Company received mortar and RPG fire wounding seven members of the 1st Platoon. B and C Companies continued to push slowly forward in the face of heavy resistance; some casualties resulted.

The response to these contacts was violent. Artillery support was continuous. The forward air controllers were always overhead and did a magnificent job of placing airstrikes on enemy positions as pointed out by the battalion commander who was either on the ground with the companies or flying at low level overhead so as to get a better view of the situation. Helicopter gunships were likewise overhead throughout the day and responded to every call from the ground commanders.

Although the enemy fire was continuous and they suffered some casualties, B and C Companies continued maneuvering toward Hill 937 attempting to gain a favorable position from which to launch a coordinated attack the following day. It was not an easy task. As a result of the day's action, the battalion had suffered 33 men wounded and four killed, numbers which would have been considerably higher had it not been for the intensive and continuous pounding of the enemy positions by the artillery, gunships and tactical air.

The companies continued to detect enemy movement during the early evening and a Spooky aircraft (C–47 equipped with miniguns) was brought on station to engage the enemy sightings. Artillery continued to pound the hill during the night.

After the day's action, the battalion commander was convinced that the NVA was occupying Hill 937 and the surrounding ridges in considerable strength; he made his plans for the following day accordingly.

May 14

The battalion made a concentrated attempt to push the enemy off Hill 937. The plan was for the companies to approach the hill from three different directions, B Company from the west, C Company also from the west but up a small ridge 150 meters south of B Company, and D Company from the north. As usual, the forward air controller arrived early and began to bomb the enemy locations in preparation for the coordinated attack; each of the companies was supported by a separate artillery preparation on their planned route of advance.

The attack kicked off as planned, and in spite of the heavy artillery and air preparation, the companies immediately began to receive enemy fire. C Company reported movement to his west and south. As he habitually did, LTC Honeycutt instructed his company commanders to move somebody toward the suspected enemy location, to watch their

flanks, to use maximum reconnaissance by fire and to stay spread out. He kept artillery, airstrikes, mortars and gunships striking the enemy. Although the resistance was exceptionally heavy, B and C Companies continued to push toward the top of the hill. At 0930, one platoon of B Company finally reached the top of the ridge where it came under intensive enemy fire. At the same time, C Company reported that he was being fired on from all directions and would have to pull back. In order not to expose B Company unnecessarily, the battalion commander directed both companies to pull back to a defensible position. While sporadic contact continued, the remainder of the day was devoted primarily to the evacuation of wounded, resupply and preparation of the night defensive positions. There was no letup in the artillery and air bombardment of the enemy, however.

A rapid count indicated that 76 enemy had been killed during the day by both small arms and airstrikes. The 3–187th lost five killed and 58 wounded.

Based on the day's contact, the battalion commander assessed the enemy strength on the hill as being from two companies to a battalion. He developed plans to hit the enemy positions again on 15 May, hopefully before the enemy had an opportunity to reinforce. His plan was for A Company to relieve C Company on B Company's southern flank and to attack from a more southerly direction; B Company was to attack again essentially along the same route due to the limited avenues of approach up the hill; and D Company, operating to the northeast, was to continue attacking in that area.

The brigade commander, who had been following developments closely, to include visiting the 3–187th on the ground, determined that additional forces would be required in order to take the hill. Accordingly, he ordered the 1–506th, which had been operating to the southwest of Hill 937, to begin moving toward the hill to assist the 3–187th.

May 15

3–187

Operations were initiated in the morning as planned. After completion of the exchange between A and C Companies, the three line companies began their move back up the ridges of Hill 937. As on previous days, airstrikes and artillery bombarded the hill throughout the day.

The enemy resistance was extremely determined and by early afternoon all three companies were in heavy contact. The enemy troops skillfully employed command detonated claymore mines which had been emplaced during the night resulting in several US casualties, particularly in B Company. Even though the enemy resistance was determined, the companies continued to advance and by 1400 hours, A and B Companies were about 150 meters from the top of the hill when a supporting aerial rocket artillery gunship inadvertently fired on B Company knocking out the company's command group; two members of the company were killed and 14 wounded, including the company commander. A new company commander was immediately dispatched to the company, but the momentum of the attack was lost. A Company continued slugging it out with the entrenched enemy and progressed an additional 75 meters up the hill.

The battalion headquarters was hit by several rocket propelled grenades during the early afternoon wounding 13 people including LTC Honeycutt and his S3 both of whom refused evacuation at the time.

The battalion commander assessed the situation. While it appeared that A Company could continue to advance, it was doubtful that B Company, with its command group knocked out, would be able to continue. Rather than risk putting a single understrength company on the hill alone, LTC Honeycutt recommended that the companies pull back to their previous night defensive positions. D Company, while progressing slowly, was in no position to support A Company should they continue up the hill. Brigade approved the plan. While the companies returned to their previous positions the Air Force and artillery continued to pound the hill.

Sporadic contact continued throughout the night including several enemy probes on the battalion's night defensive positions. Enemy movement was detected in several areas. The battalion requested and received continuous support from minigun and searchlight-equipped C–47 aircraft in addition to the always available artillery support.

It became apparent, based on the day's contact, that the enemy force was more than just a battalion-size element as originally suspected. Some of the NVA troops killed during the day had fresh haircuts, clean uniforms and new weapons confirming that reinforcements were being slipped into the area, undoubtedly from across the Laotian border. The enemy force appeared to be well trained and disciplined, adept at camouflage and concealment, and capable of delivering a high volume of accurate fire against the US forces.

Based on a reevaluation of the situation, then brigade commander decided not to attempt another ground attack up the hill again until the 1–506th was in position to support the 3–187th from the south.

1–506

The battalion continued its movement toward Hill 937 encountering only periodic small arms fire as they moved. Artillery and airstrikes were used to soften-up their route of advance. Movement was extremely slow due to the exceptionally rugged terrain and heavy vegetation.

May 16

3–187

There were no significant contacts during the day. The companies remained in the vicinity of their night defensive positions preparing for their next attack up the ridges which was planned for the following morning if the 1–506 was able to get in position by then. Meanwhile, the pounding of the hill continued and, as might be imagined, what was once a triple-canopy covered hill was now beginning to look rather barren and chewed-up. Even so, the NVA held their positions.

1–506

The 1–506th continued its movement to the north. However, the already slow movement was slowed even further by increasing enemy resistance. A and C Companies, moving along separate routes were both engaged by machinegun fire from heavily fortified bunkers from the vicinity of Hill 916, a hill approximately 1,000 meters southwest of Hill 937. Artillery, gunships and airstrikes were employed to suppress the enemy's fire; however, the enemy persisted. It became obvious that the 1–506th would not be in position for the coordinated attack on Hill 937 planned for the morning of the 17th. The battalion continued to slug it out up the ridge suffering several casualties during the day.

The two battalion coordinated attack on Hill 937 was rescheduled for 18 May. Plans were finalized during the day. Elements of the 3–187th were to move to the best position possible from which to support by fire the main attack by the 1–506th coming from the southwest. The attack was to be supported by a CS gas (tear gas) preparation in addition to a heavy tactical air and artillery preparation.

Flak jackets were issued to the attacking companies in an effort to reduce casualties even though the extreme summer temperature made wearing them almost unbearable. Extra ammunition and other supplies were also issued during the day.

The pounding of the enemy positions by artillery and air continued throughout the day and night.

3–187

The battalion made final preparation for the attack on the following day. It was decided that the best way to support the attack by the 1–506th was to simply move up the hill exerting maximum pressure on the enemy's defenses from the northwest. There was no enemy contact during the day.

1–506

Such was not the case with the 1–506th which was continuing its movement toward Hill 937. They faced increasing resistance as they advanced. The enemy on the south side of the hill, as on the north side, was well dug-in and occupied concentric rows of mutually supporting bunkers which he defended with determination. The 1–506th continued their advance, however, fighting from bunker to bunker in order to progress. To assist them, artillery, gunships and tactical air provided continuous support. CS gas (tear gas) was also used to dislodge the NVA from their bunkers. By nightfall the battalion was in position to launch the attack.

May 18

With both battalions in position to begin the attack, numerous airstrikes were again placed on the hill in an attempt to soften-up the enemy positions. By now, the once thickly covered hill was completely bald. Still, the enemy bunkers held. The airstrikes were followed immediately by an intensive artillery preparation and then the CS gas preparation which proved to be only marginally effective because of the weather conditions. The artillery continued to pound the hill as the two battalions moved out in the attack, the 3–187th with three companies from the north and the 1–506th with three companies from the south.

3–187

The 3–187th was immediately engaged by a determined enemy force. The fire was intensive and withering but the three companies were able to push on. The battalion commander was immediately overhead calling for artillery and mortar fire on the enemy positions and guiding his companies in the direction which appeared to have the best chance of success. As the companies inched up the hill, the enemy fire grew in intensity. D Company was particularly hard hit by automatic weapons fire, RPGs and claymore mines; casualties were heavy. Both A and D Companies were hit by mortars. B Company was being fired on from three directions. Even though gunships and artillery kept pounding the enemy positions, he continued to place accurate fire on the attacking companies. C Company was dispatched to reinforce D Company and in trying to reach their position came under heavy fire and was pinned down for a short time; movement was extremely difficult.

It became increasingly difficult for the companies to move in face of the withering enemy fire so the attack was halted while the enemy was again hit with a concentrated mix of napalm and bomb strikes, gunships, mortars and artillery. The attack resumed and the determined companies were almost on top of the hill when they were repulsed by a determined enemy who blew claymore mines and grenades in the midst of their own positions. At about the same time a torrential rain fell turning the slopes of the bald hill into a virtual mud slide. It was impossible for the soldiers to keep their footing and they kept sliding back down the hill. With casualties beginning to mount, the heavy rain falling, and considering that the 1–506th was having an equally hard time

progressing up the other side of the hill, the brigade commander directed the companies to pull back so as to avoid taking any unnecessary casualties. During the day the battalion had 14 men killed in action and 64 wounded while killing 112 of the enemy.

1–506

The 1–506th initiated their attack immediately following the artillery and air preparation and like the 3–187th came under intensive fire. Enemy mortars fired on the companies throughout the day. Movement had to be slow and deliberate fighting from bunker to bunker. By nightfall, the battalion had progressed to within approximately 600 meters of the crest of the hill where they established their night defensive position.

DECISION TO REINFORCE

The Division Commander, MGen Melvin Zais, followed every minute of the action, as he had been doing since 10 May. In order to have a clear and complete picture of what was happening, he spent most of every day either overhead following the action from his helicopter or on the ground talking with the troopers and their leaders getting a first hand view of the tactical situation and the hardships facing the soldiers and, on occasion, was subjected to enemy fire.

At this point in the battle at Dong Ap Bia, the Division Commander had a choice of either turning his back on the entire operation or pressing on. After carefully reviewing the situation, General Zais decided to reinforce the 3–187th and 1–506th with two additional battalions in order to completely surround the hill. General Zais discussed his decision with MGen Troung, CG, 1st ARVN Division, who eagerly made available the 2/3 ARVN Battalion for employment as one of the reinforcing battalions. The 2–501st, which had been operating just to the east of the Ashau Valley was designated to be the second reinforcing battalion.

During the night, plans were developed for a four battalion coordinated attack on the morning of 20 May.

May 19

This day was devoted primarily to preparation for the attack on the morning of 20 May. The 2/3 ARVN Battalion was moved from Hue and combat assaulted into a landing zone approximately 1200 meters east-southeast of Hill 937. The 2–501st was combat assaulted into a position 1200 meters northeast of the hill. The landings of both battalions were unopposed and they immediately moved out up the ridges to establish their attack positions for the following day.

3–187

The 3–187th, which had been reinforced with one company from the 2–506th, developed plans for the attack and resupplied the companies. The battalion commander spent a good part of the day over Hill 937 directing air, artillery, and mortars against the enemy positions. A relentless pounding of the hill was continued throughout the day and night. By nightfall, everything was in readiness for the attack.

1–506

The 1-506th continued to push up the hill during the day in order to be in a better attack position by nightfall. The enemy resistance, as on previous days, was determined. The bunker to bunker fighting continued. By dark, the companies were within 200 meters of the top of the hill.

May 20

According to plans, Hill 937 was again bombarded with airstrikes and artillery, which seemed even more intensive than on previous days. Following the preparation, the four battalions moved out in a coordinated attack.

3–187

The 3-187th attacked to the southeast with three companies abreast. While the attack was initially unopposed, as the battalion came nearer to the top of the hill, the enemy, as if waiting for the opportune minute, opened fire. The attacking companies returned the fire, and with artillery and mortars pounding the hilltop, were able to continue their advance and at 1145 hours the first company reached the top of the hill. Even so, the determined enemy continued his fight and it was not until every bunker was blown that the enemy was finally routed from the hill.

1–506

The 1–506th, attacking to the northeast, had to fight their way up the ridge. The attacking companies continued to receive small arms, RPG, and mortar fire as they progressed.

2–501

The 2–501st, attacking to the southwest, encountered no enemy resistance but did discover numerous huts and bunker complexes vacated by the retreating enemy.

⅔ ARVN

The ⅔ ARVN, attacking to the northwest, encountered some resistance, but was able to continue the advance up the hill.

SUMMARY

By noon the battalion objectives on Dong Ap Bia were taken and the enemy resistance disintegrated as allied forces pushed through the enemy positions. The routed NVA soldiers who were not killed in their positions fled the battlefield in panic in a desperate attempt to escape to the safety of the Laotian border; many undoubtedly did. Under the umbrella of the accurately directed suppressive fires, the allied forces suffered not one single death in the attack.

Throughout the afternoon, sporadic enemy sniper fire was received as the allied forces continued to sweep the hill and police the abandoned enemy positions. The battle at Dong Ap Bia was now over. The 29th NVA Regiment had been eliminated as a force to contend with at a later date, perhaps in the coastal plains near Hue.

FIRE SUPPORT

As indicated in the day-by-day discussion of the battle at Dong Ap Bia, artillery and/or tactical air bombardment of Hill 937 and its ridges was continuous, day and night, throughout the operation. During daylight hours, there was seldom a time when tactical fighters were not orbiting overhead ready to respond to the ground commander's request. During hours of darkness radar controlled bomb drops (Skyspots) were placed on the hill. When airstrikes were not hitting the hill, the fires of eight different artillery batteries plus the aerial rocket artillery battalion were pounding the enemy positions and supporting the maneuver elements. The fire support provided the attacking forces can only be described as totally responsive. Without this excellent support, the number of friendly casualties would undoubtedly have been much higher.

Following is a summary of the nearly 3.5 million pounds of bombs dropped and artillery fired at enemy positions on and around Dong Ap Bia during the period 10–22 May.

Tactical air support

Bombs, 1,088.5 tons.
Napalm, 142.5 tons.
20 MM, 31,000 rounds.

WEAPONS CAPTURED

	Individual weapons	Crew served weapons
3–187	12	2
1–506	131	20
2–501	4	0
2/3 ARVN	5	1
2–17 CAV	0	2
Total	152	25

ARTILLERY (NUMBER OF ROUNDS)

	High explosive	White phosphorus	HC	CS tear gas	Total
105 mm	10,634	517	69	256	11,474
155 mm	3,919	94	17	0	4,030
8 inch	834	0	0	0	834
175 mm	253	0	0	0	253
2.75 rocket	2,622	0	0	0	2,622
Total	18,262	611	86	256	[1] 19,213

[1] Equals 513 tons.

The following artillery units supported the action at Dong Ap Via:

A/2–319 Artillery	(105)
B/2–319 Artillery	(105)
C/2–319 Artillery	(105)
B/2–11 Artillery	(155)
C/2–11 Artillery	(155)
A/12 Artillery (ARVN)	(105)
A/1–83 Artillery	(8″)
C/1–83 Artillery	(175)
4–77 Artillery	(ARA)

ENEMY LOSSES—DONG AP BIA—ENEMY KILLED

Date	3–187	1–506	2–501	⅔ ARVN	2–17 Cav	TAC air	Tota
May—							
10	2				1		3
11	5						5
12	3						3
13							0
14	74				2	29	105
15	62						62
16	14	1					15
17	2	1				2	5
18	114	11					125
19	1	28			2	1	32
20	20	13		6		12	109
21		46		29			75
22		54		16	4	3	77
23		10	3				13
24			1				1
Total	355	164	4	51	9	47	630

Note: Prisoners of war, 2.

U.S. LOSSES

Date	3-187 KIA	3-187 Wounded	1-506 KIA	1-506 Wounded	2-501 KIA	2-501 Wounded	2-506 KIA	2-506 Wounded	Total KIA	Total Wounded
May—										
10	0	4							0	4
11	5	42							5	42
12	0	2							0	2
13	3	72							3	72
14	8	22							8	22
15	6	57							6	57
16	1	0	2	14					3	14
17	0	0	6	8					6	8
18	12	56	5	25					17	81
19	0	0	3	19					3	19
20	0	50	1	15			1	11	2	76
21	1	0	1	5					2	5
22					0	1			0	1
23			0	8	1	9			1	17
24										
Total	36	305	18	94	1	10	1	11	56	[1] 420

[1] Of the total wounded, 53 did not require evacuation.

SENATOR PEARSON WRITES ON THE NEED FOR RURAL DEVELOPMENT

Mr. GRIFFIN. Mr. President, over the past 4 years Senator JIM PEARSON has spoken out frequently and effectively on the pressing need for a national commitment to the cause of rural community development. He has argued persuasively that many of this Nation's social and economic problems can be traced to the geographical imbalance in the distribution of our people and available economic opportunities. Senator PEARSON has argued that too many of our metropolitan areas are overcrowded, too many of our rural areas are underdeveloped. In pursuit of this goal Senator PEARSON has introduced a number of legislative proposals including the Rural Job Development Act, the Rural Community Development Bank, the Rural Development Highways Act; language from the latter proposal has been written into the Federal-Aid Highway Act of 1970.

Mr. President, Senator PEARSON discusses this subject in an article titled "Rural Community Development; a National Necessity," published in the November issue of the Kansas Business Review. I wish to call this excellent article to the attention of my colleagues and I ask unanimous consent that it be printed in the RECORD.

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

RURAL COMMUNITY DEVELOPMENT A NATIONAL NECESSITY

(By U.S. Senator JAMES B. PEARSON)

The 1970 preliminary census report reveals that 78 of the 105 counties of Kansas have lost population since 1960.

A similar trend occurred in neighboring states. Seventy-five percent of the counties in Nebraska lost population. So did 90 percent in North Dakota; 86 percent in South Dakota; 77 percent in Iowa; and 60 percent in Missouri.

While Kansas managed to post a total population gain of two percent during the past decade, the national population grew by 12 percent. A major portion of this total national growth occurred in the large urban centers, thus continuing the trend which has resulted in an ever greater portion of the population being concentrated in the great metropolitan conglomerations. For example, the 1970 census count shows that 36.2 million people, among one fifth of all U.S. residents, live in a 450 mile strip stretching from Boston to Washington, D.C.

During the next three decades the U.S. population will increase by approximately 75 to 100 million persons. If present trends continue, more than three fourths of this increase will occur in the metropolitan areas. A number of population experts predict that by the year 2000, at least 60 percent of the American people will be concentrated in only four giant metropolitan conglomerations, often referred to as "strip cities."

These trends give cause for great concern, particularly in view of the fact that it is becoming increasingly apparent that the great "crisis of the cities" is to a very considerable extent the result of the excessive concentration of people and industry.

This concentration of people and industry has magnified the problem of pollution, contributed to our social ills, and has resulted in considerable economic inefficiencies. Thus, there is a growing recognition that in dealing with the urban crisis, the challenge is not simply to make the large cities more efficient and livable for more and more people, but how to keep more and more people from crowding into them.

The counterpart of this metropolitan concentration is the stagnation and, in many cases, the outright decline of thousands of our smaller communities. Indeed, the very survival of hundreds upon hundreds of our smaller communities across the nation is threatened.

This evidence clearly suggests that there is a growing imbalance in the distribution of our people. Many of us are deeply concerned that our population distribution has become undesirably tilted toward the megalopolis, away from the smaller communities.

Many people, of course, move to the large metropolitan centers because they are attracted to the environment of the big city. But many are forced to migrate because of a lack of opportunities in the countryside and smaller cities. Public opinion polls have consistently shown that a substantial majority of our people would prefer to live in smaller communities.

Those who prefer to live in the large cities must continue to have the opportunity to do so. And certainly we must make a major effort to try to improve the quality of life in the metropolitan areas, to make them more attractive. But, on the other hand, we must do a great deal to improve economic and social conditions in small communities so that those who prefer to live there will have a meaningful opportunity to do so.

The economic and social forces which are generating this rural/urban imbalance are powerful but not uncontrollable, as a number of experts have long argued. We can alter these trends. We can expand opportunities in rural [1] America if we set our minds to it and if we are willing to commit the necessary resources.

It is imperative that we move forward with the development of a national policy which will help bring about a more efficient and common sense geographical distribution of our ever growing population and economic wealth. To continue the present course of depopulating the countryside and the small cities on the one hand, while continuing to swell the population in the already overcrowded crisis-ridden cities can no longer be tolerated.

Translating the general objectives of balanced growth into positive results will be of benefit to the overburdened, metropolitan centers as well as for the underprivileged rural communities. But certainly the effort to alter future patterns of population and economic resource distribution can be of particular significance for Kansas and her sister states here in the mid-continent region. The forces which have restricted the economic opportunities in our smaller communities have forced thousands of Kansans each year to move to new areas. This loss to Kansas has been a gain to other states.

Thus, in a very real sense, states like Kansas are subsidizing the great metropolitan areas of the West Coast, the Great Lakes Region, and the North East. Our farm and small town youth have become their most economically productive workers. Our college graduates, who have been trained at great cost to the Kansas taxpayers, have added to those areas' already great reservoir of brain power. Moreover, because the economic development programs now in operation have been centered exclusively in extreme poverty areas, states in the mid-continent region generally have not received the special assistance available to other areas through such programs as the Appalachian Region Commission and the Economic Development Administration.

Translating objectives of rural community development and balanced national growth into concrete, meaningful results will not be easily or quickly accomplished. We do not fully understand all the whys and wherefores of economic growth and how best to go about influencing and guiding growth patterns. We cannot yet, at this stage, identify a complete and detailed program of action. However, certain needs are apparent.

Reduced to its simplest terms the most fundamental ingredient in rural community development is newer and better jobs. It has been estimated that it will take at least 500,000 to 1,000,000 new jobs each year in our rural communities to significantly alter present rural to urban migration trends. Accomplishing this will not be easy. Particularly in view of the fact that what we seek here is the creation of new jobs rather than the transfer of existing jobs.

A number of efforts can and will likely be used to stimulate the expansion in the quantity and quality of new job opportunities in rural areas. For example, I have proposed the Rural Job Development Act which would seek to encourage new job-creating industries to locate in rural areas by making available to businessmen a series of tax incentives such as credits on buildings and

[1] Within the last two or three years, the term "rural" has been used to encompass much more than 2,500 population, which is the official definition used by the Census Bureau. In the context of discussions of "rural community development" it is generally used to include all communities of up to 50,000 population; that is, all non-metropolitan communities. Some even include cities of up to 100,000 population within their concept of "rural." Obviously, we need a new set of terms to better describe what we now try to encompass within the old "rural" and "urban" categories.

machinery and accelerated depreciation allowances.

Tax incentives are only one possible approach. And even if the Rural Job Development Act were written into law tomorrow it would not, in and of itself, be sufficient to create the type of balanced economic growth which we seek.

Industrial plant location is influenced by a great number of factors. For example, the spirit, the determination, the vision of the leadership in local communities are of critical importance. And as you look across Kansas today you will see a number of examples where the degree of community spirit and leadership has made the difference in whether a community grows or stagnates.

But community good will and determination by themselves are also not sufficient. Prospective new industries and business enterprises are greatly concerned about the quality and quantity of such things as housing, medical services, recreational opportunities, water and sewer systems, and transportation facilities. But these types of things are often lacking if the community's economic base is inadequate.

New jobs help expand the community's economic base and therefore make it easier for the community to provide the necessary public and social facilities which new business and industry often demand. But it is difficult to attract these new job-creating enterprises in the first place unless these services are already available.

Thus, the rural development movement must include a comprehensive effort to strengthen the entire infrastructure of our smaller communities. Existing Federal programs in such areas as housing and water and sewage treatment need to be expanded. Innovations in such areas as health care and recreational development will probably be needed.

In addition, a number of the existing Federal aid programs need to be reoriented to place greater emphasis on development. As presently administered, the focus is often limited to simply maintaining the status quo rather than generating growth.

And certainly it is imperative that we bring about a more effective coordination among the various overlapping, and often competing, Federal programs.

And beyond these more direct-aid type of programs, we are also going to have to take a fresh new look at our entire transportation policy to assure that our rail, highway and air networks encourage rather than discourage the geographical dispersion of people and industry. My proposed Rural Development Highways Act and the Limited Air Carrier Act are aimed in this direction.

Altering the present patterns by which the Federal government allocates research and development funds and other monies for civilian and military procurement and the location of government projects of all types also has a potential for stimulating economic growth and development in a number of our smaller communities.

And certainly the states must play an important part in this effort to achieve a more balanced growth. Of particular importance is the need for comprehensive area and regional planning for development to assure maximum utilization of Federal aids and incentives and to make the best use of the resources of state and local communities.

The growing interest in rural community development is one of the more significant events of the past decade. I believe that we will see major breakthroughs in public policy in the next decade. Indeed, rural community development has become a national necessity.

ABOUT THE AUTHOR

Senator James B. Pearson has been representing Kansas in the U.S. Senate since 1962. Before that time he served in various offices in city and county government, was a state senator, and state chairman of the Republican party. He serves on the U.S. Senate Appropriations Committee where he is the ranking Republican on the legislative subcommittee and on the Commerce Committee where he is ranking Republican on the consumer subcommittee and the special subcommittee, freight car shortage.

INTERSTATE COMMERCE COMMISSION COMMENTS ON RAILPAX PLAN

Mr. MANSFIELD. Mr. President, as my colleagues in the Senate know, I have been very critical of the Interstate Commerce Commission in recent months because of their handling of matters pertaining to passenger train service, freight rates and the boxcar shortage. In general I have felt that in handling the surface transportation problems of our Nation, they have been too willing to acquiesce to the industry and to the detriment of the general public. As a regulatory agency, I think the Interstate Commerce Commission has a responsibility to do a little counseling and lecturing within the industry. I am delighted to see that, in commenting on the basic national rail passenger system plan, the ICC is doing this.

The Commission has released its review of the preliminary report on the railpax plan submitted some weeks ago by the Secretary of Transportation. The Commission agrees generally with the basic plan but has suggested six modifications and details which I believe are most worthwhile, and several of these will be of special interest to Montana. The Interstate Commerce Commission recommends that the plan be expanded to include a connection between two transcontinental routes under the present Butte-Salt Lake City line operated by the Union Pacific. They have also suggested that service be maintained on both the Great Northern and Northern Pacific passenger lines through Montana. This is of vital importance because to discontinue service on either line would deprive passenger service to half of my State. These recommendations also point up the continuing negative attitude on the part of the railroads which are consistently discouraging passenger service.

I sincerely hope that the Commission will continue to express these opinions in working with other Federal agencies in the development of a viable and successful railroad passenger network.

Mr. President, I ask unanimous consent that this document, "Review of Preliminary Report on Basic National Rail Passenger Service System," submitted by the Interstate Commerce Commission, be printed at this point in the RECORD.

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

REVIEW BY INTERSTATE COMMERCE COMMISSION OF PRELIMINARY REPORT ON BASIC NATIONAL RAIL PASSENGER SYSTEM

DECEMBER 29, 1970.

TO: SECRETARY VOLPE.

The Commission recognizes that your preliminary designation is the culmination of a most difficult and controversial task. We commend you on the achievement of setting forth a plan upon which there can now be built a system of rail passenger service. Without this, such an effort could not be made, and rail passenger service in this country would have been destined to disaster. Within the limitations and objectives of the Rail Passenger Service Act of 1970, the initial success of the new system will require a substantial cutback in existing passenger service. Keeping things in mind, we have carefully analyzed your preliminary designation. We have unavoidably reached the conclusion that it omits certain links, segments and other specifications essential in our view to a meaningful national rail passenger system. Absent those links and segments, the preliminary designation leaves whole regions of the country without service and this service, our findings indicate, is clearly needed. If added to the system, even though some of the additional service would undoubtedly be financially marginal, we believe the system would then, on balance, more nearly meet the requirements of the statute.

Our attention was drawn to ambiguities in the manner of presentation and the layout of the preliminary designation, by which the public might be misled into thinking that every route shown will be operated. The fact is that of the many routes you have identified between the specified end points, the National Railroad Passenger Corporation created under Title III of the Act would elect that route or routes to be operated. Route selection is a Corporation function. Point designation is the Secretary's function. No one knows, at this point, which route will be selected; but a more specific designation of the intermediate points between which service must be performed, would provide a clearer guide for route selection.

Our recommendations as to the basic system, summarized here as "essentials," are set forth in detail in Appendix A. Other recommendations for the institution of service in excess of the basic system (under Section 403 of the Act) are set forth as "secondary" in Appendix B. The flexibility of Section 403, as opposed to the rigidity of Section 404, will permit these "secondary" trains to be tested in the light of actual experience. We urge that they be so tested, in conjunction with the basic system for at least one year. Following the termination of that period the Corporation should study the operations of the system as a whole in order to make the determination as to which of the "secondary" routes should be retained.

In reaching our conclusions we have drawn extensively upon our own records developed in passenger train cases over the last twelve years. These proceedings shed light upon the relative demand for passenger service between points, and the extent to which other modes of transportation are available. Among them is the record compiled just last month in extensive hearings conducted along the Southern Pacific's "Sunset" route between Los Angeles and New Orleans primarily to develop data for this review. We have considered population statistics, air line "pair" statistics, existing bus and air schedules, various maps and atlases, the Department of Transportation's 1968 "Corridor Task Force" report, information received in the course of a briefing of our staff by the Department on December 17, 1970, and other pertinent matter.

Initially, we are concerned about whether your design fully satisfies the statutory mandate. You have specified the ultimate termini between which intercity passenger trains shall be operated and have identified all routes over which service *may* be provided (this latter subject of identification of routes is more fully discussed below). These two requirements—specification of points and identification of routes—are set forth in Section 201 "Designation of System." But we raise two basic questions as to your method of point specification and route identification: First, does it meet the requirements of Section 101, "Congressional Findings and Declaration of Purpose"?

And second, does it meet the Section 201

requirement that the points between which the trains shall operate be designated?

As to certain areas of the country, we believe your designation falls short of the Section 101 standards. The Corporation is given such wide latitude of route choices between some widespread end points that some vast areas of the country may be left without service and the Corporation cut off from revenues available in those areas. By operating only the smallest number of train miles in the name of expediency—using a route common to sets of end points—the Corporation could, with the one route, satisfy its obligation as to several sets of end point pairs, yet entirely avoid operating through whole regions, for example, through the northern and southern states.[1] This is too wide a latitude of choice. Vast areas are in danger of losing *all* passenger service by rail.[2]

Skeletalized in that fashion, the operations would not comport with the intent stated in Section 101. There the Congress found that . . . the public convenience and necessity require the continuance and improvement of such service . . . between crowded urban areas and *in other areas of the country;* . . . (emphasis supplied).

With the wide latitude afforded by the preliminary designation, the Corporation could provide service between the crowded urban areas (the end points) but neglect the "other areas of the country." By failing to provide for the latter service we think the proposed design does not fully satisfy the stated Congressional intent. To meet this "other areas" requirement, we believe it was intended that you specify the points between which the trains *shall* operate, and not merely the end points on long distance routes.

Turning next to the route identification, we respectfully submit that, as given, it is not really an identification in the sense intended by Congress. The "routings" are written only as "via" certain points, without the customary railroad-by-railroad point-by-point descriptions. As a result, the identification is sometimes ambiguous, particularly when the accompanying maps do not clearly show rail routes. For example, one of the Chicago-San Francisco routes is described as "via Omaha-Ogden/Salt Lake" (Preliminary Report, p. 26). But there are at least 3 routings between Chicago and San Francisco via Omaha:

(1) The Burlington Northern-Denver & Rio Grande Western-Western Pacific (the former "California Zephyr");

(2) The Milwaukee-Union Pacific-Southern Pacific (the "City of San Francisco");

(3) The "interchange" route presently operated by the Burlington Northern, Rio Grande and Southern Pacific.

Yet it is impossible to determine from the preliminary designation which of the Chicago-San Francisco routes are being designated as available to the new Corporation. Neither the list of "identified" routes nor the list of all extant routes would appear to satisfy the requirement of Section 201 that an appraisal be made and judgment be exercised on the basis of the statutory criteria—which include, among others, "service to more centers of population" and "joint operation . . . of facilities of two or more railroad companies."

This ambiguity is of substantial importance to members of the travelling public—who should be able clearly to tell just what options are open to the Corporation. The matter is also significant to the carriers, because the payments they will make to the Corporation may be computed by their intercity losses sustained "over the routes between those points" specified by the Secretary (Sec. 401(a)(3)(B)). Moreover, specification of points between which trains shall operate would also assure the public that certain stops will be established. In this connection, it is our understanding that the "intermediate points" shown on the preliminary designation were used for identification only and do not guarantee service at the cities named.

As we understand the statute, the intended description of "service characteristics" calls for a degree of specificity not reached in our preliminary report. In explaining the bill, the House Committee Report states that the Secretary's preliminary report would specify "* * * points between which intercity passenger trains would be operated, routes over which service will be provided, and the schedules and equipment characteristics of trains operating between those points." House Report No. 91–1580, 91 Cong., 2d Sess. (1970), p. 5. To meet the intent so expressed, something more is required, in our opinion, than a statement of general service characteristics. At least to some extent, there should be an indication of what equipment and services should be in the make-up of the trains as they operate between named cities. For example the history of the Act shows that Congress envisioned "overnight runs between major centers of population, such as New York-Chicago" as included in the plan.[3] Similarly any rational system would require more frequent service between New York and Washington than between Chicago and San Francisco—where we have found tri-weekly operations sufficient to meet travel needs. Minute details as to every operation would be impractical, of course; yet, we feel it would be more consistent with the legislative purpose, more useful to the traveling public and helpful to the carriers, too, if your final report were more particularized as to service characteristics between specified points.

We recognize that the designation of "service characteristics" assigned to you by Section 201 to some extent overlaps our responsibility under Section 801 of the Act to prescribe regulations dealing with "adequate service, equipment, and facilities for intercity rail passenger service." The task assigned to this Commission, we view as a continuing one, and we shall shortly begin with a rule-making proceeding in which the Corporation and other interested persons may be expected to participate.

Our contribution in this regulatory area would be more helpful toward the development of a successful rail passenger system if we—and the public as well—had the benefit of a more precise indication than appears in the preliminary designation of the "service characteristics" you deem appropriate, in the present circumstances, between particular points.

Addressing the cost aspects, it is our judgment, if passenger revenues and carried costs alone were determinative, there would be a serious question as to whether a basic system of any kind could be sustained. Government help is required, and that provided by the new legislation presents a wholly new picture. Now, cost considerations, while of importance, need not be of such magnitude as to spell defeat before the system has a chance to prove itself. The plan for the system has, from the time of its conception, been subjected to the critical scrutiny of many, and has been variously appraised as being any number of things ranging from "a bright promise for a glorious rebirth" to "a clever contrivance for an ignominious demise." Whatever the future may produce, the plan and the system should be utilized, at the very least, as a real test of whether good passenger train service, equal in quality and quantity to the common expectation, can attract and sustain sufficient patronage to compete with the other popular modes of travel on a self-sustaining basis.

Even as such a test, however, the system must be, in actuality, a system—not merely a few trunklines with occasional flair-outs connecting major population nodes. As Congress has envisioned it (Section 101), the system must link together the various regions, providing service between the crowded urban areas and in other areas of the country, so that the traveler in America, will in fact be able to choose rail when most convenient to his needs. Short of that, the entire Federal expenditure could turn out to be a waste.

In our judgment the system set forth in your preliminary paper should be modified and augmented to provide for the services described in detail in Appendix A of these comments. And, if the project is to have a real chance at success, the funding necessary to feasibility must be made available. The essentials of our recommendations are summarized as follows:

(1) We urge preservation of rail passenger service along the west coast between Seattle and San Diego. Service over this fast-growing corridor would link some of the nation's largest metropolitan areas between which a tremendous amount of intercity travel occurs. If successful, it could greatly contribute to the alleviation of the notorious highway congestion and air pollution problems of this region.

(2) We think it essential that rail passenger service linking the south and southwest with the west be maintained, as at present, on a thrice weekly basis between New Orleans and Los Angeles. Omitting service across the southern tier, the preliminary designation effectively precludes transcontinental passenger service over the "Sunset" route for the entire southeast as well as for millions living in or near the numerous large cities of the southwest such as Beaumont, Houston, San Antonio, El Paso, Tucson and Phoenix.

(3) Trains between Chicago and San Francisco should run over the "Feather River Canyon" route of Western Pacific between Salt Lake City and San Francisco and the "Rocky Mountain" route of the Denver & Rio Grande Western between Denver and Salt Lake City. This routing will not only assure the continuance of a uniquely scenic travel experience but also will assure continued service at Denver and Salt Lake City.

(4) Washington and Chicago should be linked by direct through rail service, so that the nation's capital could be directly and conveniently accessible by rail from midwestern and far western points. This is the kind of route which, under current highway and airway congestion problems, could well regain a substantial clientele of business travelers.

(5) Trains between Chicago and Seattle should be designated to run via St. Paul-Minneapolis with specified stops at the Twin Cities. Otherwise, it is possbile, under the preliminary designation, for those trains to be routed over another corridor completely depriving the states of Wisconsin, Minnesota, North Dakota, and Montana of rail passenger service.

(6) The Tampa-St. Petersburg area should not be left without rail passenger trains. This part of Florida generates comparatively heavy vacation travel and is inhabited by many older retired people for whom train travel is a virtual necessity. Since you have designated routes along the east coast to Florida, our proposal would involve a relatively short extension of already recognized routes.

In addition to the six services listed above, we feel the other recommendations listed in Appendix B must be given careful consideration in arriving at a realistic passenger system.

By the Commission.

GEORGE M. STAFFORD,
Chairman.

FOOTNOTES

[1] Chicago-Seattle; Chicago-San Francisco; and Chicago-Los Angeles all have—as one alternate route—the 1,302 miles between Chicago and Green River, Wyo., from where separate trains could be operated to the destinations. If this occurs, there would be service only through a central corridor.

[2] For example, the end points of Chicago-Detroit; Chicago-New York; and New York-Buffalo could all be handled as a single operation leaving unserved a wide belt across Indiana, Ohio and Pennsylvania now traversed by several New York-Chicago routes. To save train miles, the operation between the end points of Chicago-Cincinnati could be fitted into the St. Louis-Washington, D.C., and Chicago-Miami end points thereby eliminating six other possible routings between the latter two pairs.

[3] Sen. Report No. 91–765, 91st Cong. 2d Sess. (1970), p. 9; Cong. Rec., May 5, 1970, p. 14164.

APPENDIX A—ESSENTIAL RECOMMENDATIONS

1. West coast service between Seattle and Los Angeles

(a) Seattle-San Francisco

To provide service between Seattle and San Francisco, those cities should be established as north-south end points with Portland as an intermediate point. Under the Secretary's proposed basic system, the service between San Francisco and Portland would be eliminated. Service between Portland and Seattle would remain only as a possible portion of an alternate Chicago-Seattle routing.

The Seattle-San Francisco corridor is approximately 900 miles in length, with the Seattle-Portland segment comprising 186 miles. The corridor embraces three metropolitan areas (Seattle, Portland, and San Francisco) with total population exceeding five million. These metropolitan areas rank 18th, 33rd and 6th respectively in the nation.

Our extensive proceedings dealing with train service between San Francisco and Portland clearly show a need for such service which has been operated, albeit at a loss, by a prosperous carrier.[1] Based on our records we conclude that at least tri-weekly service can satisfy public need, with substantial reductions in past operating losses.

In 1958, three pairs of trains were operated daily. Shortly after the enactment of Section 13a of the Interstate Commerce Act, Southern Pacific successfully sought authority to reduce the daylight service, the Shasta, to a tri-weekly service during the off season. See *Southern Pacific Transportation Company Change of Train Service on Trains Nos. 9 and 10 Between Portland, Oregon and Oakland, California,* 307 I.C.C. 209. Reference to that proceeding indicates that on a daily average 466 passengers were utilizing the subject trains. Recognizing that the claimed annual losses were substantial, i.e.—some $1,912,000, and that an abundance of alternate rail service existed, the Commission authorized reduction of service by order decided May 6, 1959. The rail service remained relatively constant until 1964 when the carrier sought to reduce the Shasta service to a daily summer service only. See *Southern Pacific Transportation Company Change in Train Service on Trains Nos. 9 and 10 Between Portland, Oregon and Oakland, California,* 320 I.C.C. 740. While the claimed losses on the Shasta had decreased (as a result of the 1959 proceeding) by some $1 million, the Commission, again citing the availability of remaining service, permitted the additional partial discontinuance effective on May 14, 1964.

Less than a year later Southern Pacific sought to discontinue a second pair of Portland-San Francisco trains. See *Southern Pacific Transportation Company Discontinuance of Trains Nos. 19 and 20 Between Portland, Oregon and Oakland, California,* 328 I.C.C. 947. Discontinuance of these trains was authorized because they were primarily for mail and express and served some 35 intermediate points, taking 4–5 hours longer than either the Cascade or Shasta. Finally, in 1966, the Commission authorized discontinuance of the remaining tri-weekly, summer-only Shasta. Significantly, however, our records in this proceeding (Finance Docket No. 23756) show that despite rising costs from 1959, the institution of a tri-weekly summer service reduced the total expenses from over $4 million to approximately $733,000 annually.

In 1968, Southern Pacific sought unsuccessfully to eliminate the last remaining Portland-San Francisco service, the Cascade. *Southern Pacific Transportation Co. Discontinuance of Trains Nos. 11 and 12 Between Portland, Oregon and Oakland, California,* 334 I.C.C. 159. In rejecting the proposal and ordering the Cascade continued for one year (the maximum period allowable under the statute) we discussed several currently relevant factors. Of great significance for consideration of the basic national rail passenger system is the discussion of the Cascade as a connecting line. As the Commission stated (334 I.C.C. at 183):

"The train is a highly important link in our national transportation system. Approximately three-fourths of the Cascade's passengers transfer to or from other connecting trains. Therefore, the proposed discontinuance severing this connection conceivably could set off a chain reaction or domino effect destroying or seriously damaging other connecting trains, particularly if they represent marginal operations. We have stated in other proceedings that it is imperative to protect connecting trains or carriers in these proceedings where possible, since the severing of such connections through train discontinuances inevitably results in serious adverse effect on connecting carriers, leading in turn to further train discontinuances."

Other factors in ordering continuance of the Cascade involved high patronage, i.e., 144,000 in 1966 and 100,000 in 1967, and overstatement by Southern Pacific of its claimed losses. Significantly for present purposes we also noted that "the patronage is particularly impressive in view of the witness' testimony concerning deterioration in service, and the fact that Southern Pacific has exerted little or no effort to attract passengers either through advertising, travel agents, or other promotional programs." As we pointed out in *Union Pacific Railroad Company Discontinuance,* 331 I.C.C. 348, 369, it is reasonable to expect a railroad to take efforts to sell service in a manner compatible with the performance of its obligations as a common carrier (334 I.C.C. at 184). The Commission thus temporarily halted final cessation of the last remaining Portland-San Francisco passenger service.

Within weeks after this one-year period expired, Southern Pacific was again before the Commission seeking to reduce the Cascade to a tri-weekly service in lieu of a daily service *Southern Pacific Transportation Company Change in Train Service on Trains Nos. 11 and 12 Between Portland, Oregon and Oakland, California,* 338 I.C.C. 1. Because the record and decision in this case are relatively current, the proceeding—as well as the prior Cascade case—is significant in assessing any proposed basic national rail passenger system. Though we allowed the carrier to institute tri-weekly service, the decision shows that the Cascade during 1969 still carried a combined daily average of 192 passengers. Again, the record contained evidence dealing with Southern Pacific's attempt to discourage patronage. The carrier estimated that a tri-weekly operation between Portland and San Francisco would retain 74.9 percent of its passenger revenues while total expenses would drop some $1.3 million—or, stated differently, total losses would decrease over 33⅓ percent. The net result of these carrier estimates, substantially adopted by the Commission, is an annual operating loss of approximately $1 million, as against losses under daily operation which were rapidly approaching $2 million annually. The tri-weekly operation is now less than 4 months old and full operating results remain to be determined.[2]

In concluding, the Commission observed (338 I.C.C. at 20; emphasis added):

"that the Cascade is the last remaining direct rail passenger service between California, the Pacific northwest, and Canada. We are still mindful of this situation and have no intention of abandoning the users of rail service in this area on the basis of the record shown herein. The carrier indicated that it fully intends to continue the proposed operation in good faith and to make the operation a success. It has promised to upgrade the service and to carry out a newspaper campaign along the cities served by the Cascade for the purpose of promotion. We are in hopes that the improved service and promotion will increase patronage to the *extent that resumption of daily service will become warranted.* On the other hand, if the Congress of the United States, as stated by a number of its members in submitted statements, initiates a program to support national railroad passenger operations, *the service can easily be restored to a full-time basis.*"

The Seattle-Portland-San Francisco corridor falls within the purview of the standards prescribed for the basic system. Historically, and in terms of traffic usage and flow, the corridor has always extended to Seattle and until recent years through car service was provided at Portland. Because no carrier has sought to discontinue the Seattle-Portland segment, our records—and the bulk of the discussion above—relate to the Portland-San Francisco segment. But we do not wish to leave the impression that the Seattle-Portland segment is of any lesser importance.

A major factor is the importance of the Seattle-Portland-San Francisco service to the overall viability of the basic system. Elimination of this route would unquestionably have adverse effects on the remaining designated service, as this corridor enables reasonable connections to virtually every sector of the country. The exact loss of patronage to remaining trains is, of course, unascertainable, but we wish to strongly emphasize the fact that some 75 percent of the patrons presently utilizing this service are either destined to or from points beyond the corridor, including transcontinental service (334 I.C.C. at 183). In short, the elimination of north-south service between Portland and San Francisco, as suggested by the Secretary's preliminary designation, breaks connections and creates a significant gap which could well weaken the basic system from its inception.

While such an operaton has incurred losses in the past, in our view this consideration is outweighed by public demand (an average of 192 persons daily despite considerable evidence of downgraded service), by the fact that feeder value of such trains mitigates the losses, and by the judgment that a vast and important area of the country should not be deprived of rail passenger service. Moreover the new tri-weekly service between Portland and San Francisco, in existence for only 4 months, has not had sufficient opportunity to prove itself. This becomes particularly relevant in view of the first preliminary operating results showing a passenger retention rate exceeding 80 percent. Given the resources and purposes of Railpax, that patronage should at least remain level and hopefully will increase. We strongly urge the Secretary to designate the Seattle-Portland-San Francisco corridor as a segment of the basic system.

(b) *San Francisco-Los Angeles*

Under the Secretary's proposal there will be no direct passenger service between San Francisco and Los Angeles. It is respectfully submitted that north-south service between Los Angeles and San Francisco should come within the basic system.

Footnotes at end of article.

The Los Angeles-San Francisco route is a link in other vital routes and is, of course, related to our other essential recommendations. Historically, and presently, direct connections are available between Seattle and Los Angeles. Those patrons desiring to go either eastward or further south can be provided with direct connections with Southern Pacific's Sunset at Los Angeles. This latter service, because of a recent innovation, is the only through transcontinental train service to the eastern seaboard.

Perhaps the most significant factor is the sheer enormity of the population of the two termini. According to the 1970 census, Los Angeles and San Francisco are the second and sixth, respectively, largest metropolitan areas of the United States with a combined population exceeding 10 million. The population trends in California show every sign of continued growth. It is also generally recognized that this area attracts many older or retired people—a group shown by our records to be particularly dependent upon rail passenger service. In addition, freeways and airways between Los Angeles and San Francisco are at their saturation point and simply cannot handle 100 percent of the intercity traffic. In our view, it is difficult to conceive that the Los Angeles-San Francisco corridor would not support at least some rail service.

Because Los Angeles-San Francisco trains are intrastate, we do not possess the detailed information available in our interstate discontinuance cases. Nevertheless, our records in the San Francisco-Portland cases show that numerous patrons will utilize these trains in conjunction with travel to or from points north of San Francisco. The Los Angeles-San Francisco route not only offers feasible connections to all parts of the country, but has the unique advantage of providing patrons with unusual scenery and the chance to see both of the major west coast cities as part of the same trip.

We see no reason why the west coast, which is the Nation's most substantial growth area, should be treated differently than the east with respect to north-south corridor service. The basic plan incorporates service from Boston to Miami with sufficient intermediate routings to insure a viable north-south service in addition to east-west service. The Pacific Coast with its senior citizens, its congested freeways and airways producing pollution, and its high density of population, certainly is in no lesser need of the same north-south service.

(c) *Los Angeles-San Diego*

Under the proposed system no service would be provided between San Diego and Los Angeles. Los Angeles would be an end point in the various east-west routings to Chicago. The Commission recommends the incorporation of routes between Los Angeles and San Diego. The short 127-mile distance between these two cities, the relatively dense population, the high growth rate, and increasing traffic congestion are all reasons why Los Angeles-San Diego service should be included. It would appear, as developed below, that this would be a highly profitable route which could subsidize other marginal but required operations by the Corporation.

The area between Los Angeles and San Diego is one of the most densely populated parts of our most populous state. Los Angeles, San Diego, and the intermediate point of Anaheim, have a combined population of just under 10 million. Between 1960 and 1970, these 3 cities have experienced growth rates of 15.4 percent, 26.9 percent and 100.2 percent, respectively. All of these increases exceeded the national average of growth for cities of population of 500,000 or more with Anaheim having the highest percentage increase of any city in the country. Rather than eliminating service between these populous centers, serious consideration should be given to the institution of a "ground shuttle" type operation similar to the metroliner in the New York-Washington corridor.

Of additional significance is the fact that this 127-mile corridor presently supports three pairs of trains daily. These trains, which have never been before this Commission for discontinuance, not only serve local traffic but provide an important link in east-west transcontinental service. Presently, two of the three pairs of trains provide direct connections with *all* of Santa Fe's Los Angeles-Chicago service. Exclusion of the Los Angeles-San Diego route would, therefore, cut off a potential transcontinental market of no less than 3 million.

It is evident to the Commission, based on the short distance, the large and growing population, the importance to transcontinental service, and the extensive existing rail service, that the Los Angeles-San Diego corridor will support a profitable rail service and provide an alternative to highway and air travel in an increasingly congested urban area.

2. Service between Los Angeles and New Orleans

Under the proposed system no east-west service would be provided between New Orleans and Los Angeles. This would leave the entire southeast and southwest without direct transcontinental rail service. We are unable to understand the basis for this omission. Accordingly, we recommend establishment of Los Angeles and New Orleans as east-west end points.

The 2,033-mile New Orleans-Los Angeles Sunset route is operated tri-weekly by the Southern Pacific. The Sunset trains have come before the Commission on several occasions. In the first proceeding the Commission concluded that Southern Pacific had purposely downgraded service to the extent that a profitable run had become a losing operation and consequently denied the discontinuance. *Southern Pacific Company Discontinuances of Trains Nos. 1 and 2 Between Los Angeles and New Orleans,* 333 I.C.C. 783, 794. Arguments as to the degree of losses or viability of such service should, in our view be considered in light of such evidence of downgrading.[3]

Recently, however, there has been a substantial improvement of service. In October, 1970, the Commission permitted the Sunset to operate on a tri-weekly basis in conjunction with the carrier's proposal to reinstate dining cars and sleeping cars. *Southern Pacific Transportation Company Change in Service of Trains Nos. 1 and 2 Between Los Angeles, Calif. and New Orleans,* Finance Docket No. 26324. Southern Pacific also entered into an arrangement with Southern Railway and Penn Central whereby through transcontinental service from New York and Washington to Los Angeles is now offered. This new service so far has received an enthusiastic public response. Testimony in this recent Sunset case shows that in a month's time, bookings for sleeper service have been so great that extra sleeper cars have been or will be added on 22 occasions between now and March 1971 In addition, 35 sleepers will be added in this period for special tour groups.

Certain metropolitan areas, whose population exceeds 3,000,000 people, would be left without *any* meaningful transcontinental rail service under the Secretary's proposal. Tucson, Phoenix, and El Paso would have only a northeastern route available if such a route is operated by the Corporation which has three possible routings between Los Angeles and Chicago of which only one serves these cities. San Antonio and Beaumont would have no rail service at all. Some of these cities have large retirement communities which are potentially excellent markets for rail passenger service. Moreover, our recent Sunset investigation shows that only 11 of the 38 major centers of population served by the Sunset have through bus or plane service on the Los Angeles-New Orleans route. For the other 27 cities, east-west travel involves circuitous routing, transfers, and delays. Over the years the communities served by the Sunset have shown a continuing reliance on railroad service. We continue to adhere to the view, supported by our Sunset investigation concluded only last month, that Los Angeles-New Orleans service is essential to any basic rail passenger system.

Furthermore, if we may assume the establishment of the Sunset route and that the Corporation elects to operate the Santa Fe southern route between Chicago and San Francisco through New Mexico at the Dalies, Belen and Isleta area, a short connection of not more than 242 miles could be made between El Paso and the specified New Mexico area served by Santa Fe. This would give both the west coast and southwest a transcontinental southern and midwestern route. Thus, at El Paso, a passenger could proceed to New Orleans and the northeast *or* go on to Chicago and the midwest over a much shorter and cheaper route.

Additionally, the short 242-mile connection could replace a 1,000-mile routing proposed by the Secretary from El Paso to Kansas City much of which is over the Rock Island line which is in such a poor state of repair as to make rehabilitation difficult.

3. The Feather River Canyon route of the California Zephyr

We urge specification of the Western Pacific route between Salt Lake City and San Francisco as part of the already prescribed Chicago-San Francisco end point service. Under the Secretary's proposed system, service between Chicago and San Francisco is designated over various routes, including one described as "Salt Lake City/Ogden." Under this description, there were three possible approaches: the Southern Pacific from Ogden; Western Pacific from Salt Lake City; and the present across-the-platform interchange at Ogden utilizing Southern Pacific and Denver & Rio Grande Western.[4] We think it essential that this routing ambiguity be clarified and that the Western Pacific route be used.

The California Zephyr route between Salt Lake City and San Francisco, via Western Pacific, traverses spectacular scenery of the Feather River Canyon. As recently as 1967 we found that "operation of the California Zephyr has permitted more than 135,000 persons a year to enjoy some of the most spectacular scenery in the country under ideal conditions. In this sense, the trains * * * are a unique national asset." *Western Pac. R. Co. Discontinuance of Trains,* 330 I.C.C. 577, 586 (1967). One year later we stated that a trip on the Zephyr "is a unique experience" providing "breathtaking views of some of the finest scenery in America" and again recognized the train as a "unique national asset." *Southern Pacific Discontinuance—Ogden to Oakland,* 333 I.C.C. 525, 537, 557 (1968).

Since their inception in 1950 the Zephyr trains have carried nearly three million people. Daily average patronage has exceeded 75% of capacity; and in 1967 we found that the Zephyr operated "at virtually full capacity during the summer vacation season" (330 I.C.C. at 586). Ultimate discontinuance of the Western Pacific Zephyr segment rested not on any lack of patronage, but on other factors—primarily because the losses were driving a relatively small carrier into a deficit position. *Denver & R. G. W. R. Co. Discontinuance,* 336 I.C.C. 691, 710 (1970).

But cost factors, while still a vital concern, need not necessarily override other considerations under the new legislative approach. Indeed the Senate Committee Report states: "Examples of what the committee foresees

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Footnotes at end of article.

included in the long-distance network are * * * the principal routes from midwestern points to the Pacific coast, *including those of unique national beauty.*" (Emphasis added).[5] And the same point was made during debate on the Senate Floor.[6] The Western Pacific segment, if operated in conjunction with the Denver & Rio Grande Western segment between Denver and Salt Lake City, would serve the heavily populated metropolitan area of Denver with over a million people and reach several otherwise isolated communities not adequately served by other modes of transportation. Additionally, this route traverses the scenic Rocky Mountain area in Colorado. Under all of these circumstances we urge preservation of this "unique national asset" as part of the basic system. Taken as a whole, the D&RGW and Western Pacific route appears preferable to the more northern Union Pacific operation.

4. Thorugh service between Washington and Chicago

In our judgment it is essential that the basic national system include direct through rail service between Chicago (the gateway to most western points) and the Nation's capital. Such an operation would link the country's third and seventh largest metropolitan areas which have a combined population of nearly ten million people. This is especially feasible because the Secretary has already designated routes which can be used to provide precisely such a service. Unfortunately, however, the preliminary designation fails to make clear whether or not direct through Washington-Chicago service is contemplated.

We note the designation of the Penn Central Washington-Baltimore-Harrisburg route as part of an alternate route between Washington and St. Louis. Harrisburg, of course, is an intermediate point on the Chicago-New York routing. Historically, and at present, the Harrisburg-Washington route has been utilized as one of the main routes between Washington and Chicago. Through car service, however, is no longer provided and the Penn Central route to Chicago is somewhat cumbersome, involving transfers at both Baltimore and Harrisburg. Another disadvantage of the routing is that on the eastbound connection passengers must get up at the crack of dawn to make the Washington connection. Despite these disadvantages under present operation, the Penn Central routing is most feasible and offers the fastest rail service between Chicago and Washington. We strongly recommend that the Secretary designate this Penn Central route to Chicago but eliminate the need for the two transfers at Harrisburg and Baltimore. This could readily be accomplished by providing a through sleeping car and coach between Washington and Chicago.[7]

Another alternate designated route is the Baltimore and Ohio route from Washington to Pittsburgh at which point, evidently, passengers could transfer to the Penn Central New York-Pittsburgh-Chicago route. Pittsburgh likewise is an intermediate point on the New York-Chicago designated route and it is anticipated that in the very near future the new Metro terminal at Pittsburgh would enable a reasonable connection at Pittsburgh for Washington passengers destined to or from Chicago. Presently, however, the B&O and Penn Central terminals are over a mile apart and we therefore suggest that Pittsburgh not be used as a connecting point to Chicago at least until the new terminal is completed—and even then only if through Washington service is provided. Such service could also be operated, on a slightly longer schedule, over already designated routes between Washington and St. Louis: B&O-C&O-Penn Central via Cincinnati.

Thus under the designated basic system, implementation of a Chicago-Washington direct route should offer little, if any, difficulty to the new Corporation. One of the three connections already designated (Cincinnati, Pittsburgh, or Harrisburg) can readily be turned into a through-car service. The service we propose can be operated on an overnight basis with maximum convenience to those travelling on business. Such a train is presently operated, has been relied upon for years, and has never been the subject of a discontinuance proceeding.

5. Northern tier service between Chicago and Seattle

The Secretary has established Chicago and Seattle as end points. However, he lists three potential routes, only one of which serves the northern tier of states of Wisconsin, Minnesota, North Dakota, and Montana. *Unless* this northern alternate be implemented, *all* of these states would be left without *any* rail service. Located in these states are two large metropolitan areas (Milwaukee and St. Paul-Minneapolis) comprising over 3 million people, which areas rank among the 20 largest in the country.

To insure that service be provided to these northern states and cities, the Commssion proposes establishment of Chicago and St. Paul/Minneapolis as end points and St. Paul/Minneapolis and Seattle as end points.

(a) Chicago-Twin Cities

Our data showed substantial demand for at least some service between Chicago and the Twin Cities. Even today, after discontinuance proceedings under a statute designed to relieve railroads—which to some extent prevented our examining area transportation needs as a whole—there are still nine trains being operated by two railroads (Burlington Northern and Milwaukee) between the points. Our most recent proceedings show that even the four trains selected by the carriers—presumably the best candidates for discontinuance—carried nearly 140,000 people annually.[8] Viewed as a whole these proceedings show that Chicago-Twin Cities service could draw upon a market for travel between the terminal (336 I.C.C. 544) as well as a market for travel between Chicago-Milwaukee where we found "a degree of public need" (338 I.C.C. at 108).

Such trains can be operated on a convenient overnight schedule so as to benefit primarily the through passengers. They can also operate during daylight hours to benefit intermediate points such as Milwaukee on one route or a number of smaller rural communities on the other. Each route has its advantages,[9] and, under our suggestion, the Corporation could either select between the routes or, preferably, operate trains on alternate days over both.

(b) Twin Cities-Seattle

Presently, Burlington Northern operates eight trains daily between St. Paul and Seattle/Portland[10] over two separate main lines and via four different routings. Two pairs of trains use the former Great Northern route via Glacier Park. One of these trains, the Empire Builder, is a luxury express train providing the fastest ground service between Chicago and Seattle. It serves Williston and Minot, N.D. The other train, the Western Star, is routed via Alexandria, Minn., and Grand Forks, N.D., and provides the only direct connecting rail service to Great Falls. Montana, and Winnipeg, Manitoba. Both the Empire Builder and the Western Star serve Glacier National Park in the summer and the Whitefish Mountain ski area in the winter, popular rail destinations.

Two pairs of trains use the former Northern Pacific route via Yellowstone Park. One of these, the North Coast Limited provides luxury through service between Chicago and Seattle/Portland. This train serves Butte, Montana. The other train, the Mainstreeter, provides essentially local service and is routed via Helena, Montana rather than Butte.

In addition to providing the only all-year service to Yellowstone the Northern Pacific route serves Billings and Missoula, Montana, as well as Bismarck, the capital of North Dakota. In Montana, the Great Northern and Northern Pacific routes, while parallel, are almost 300 miles apart. In North Dakota, they are over 100 miles apart. Thus, for over 1,000 miles. they are not competitive with each other or any other rail passenger service.

All four pairs of daily transcontinental trains are well patronized. Indeed of these, only one, the Mainstreeter, has ever come before the Commission for discontinuance. And that we denied.[11] In analyzing the trains which the carrier itself regarded as the most likely prospect for discontinuance, we found in 1968 that 251,827 passengers used the Mainstreeter annually, and that unlike the general trend—usage was actually *increasing.* Pointing to these increases (which, even according to railroad figures showed an average of 345 passengers per trip), the Commission concluded: "We consider it clear beyond dispute that the public has not abandoned the Mainstreeter" (333 I.C.C. 15, 38). In 1969, when the carrier again unsuccessfully sought to discontinue the Mainstreeter, we noted that a decrease in patronage was attributable to intentional downgrading by the railroad. As we concluded "* * * there are good reasons for this decrease in patronage—reasons brought about by railroad management in contemplation of discontinuance" (336 I.C.C. at 38). Despite all of this, the Mainstreeter trains still carried "approximately 200,000 revenue passengers" in 1968 (336 I.C.C. at 40).

Such extensive use is in addition to the North Coast Limited, which except for the Butte cut-off, parallels the Mainstreeter route between St. Paul and Seattle. Significantly the North Coast has never even been the subject of a discontinuance proceeding. In these circumstances we think there is ample basis for such service in the basic national system.

The use of trains over the former Great Northern route is equally impressive, considered along with the fact that the carrier has never sought to discontinue its two pairs of transcontinental trains operated over this route. In 1969, approximately 200,000 people used the Western Star, which runs between St. Paul and Seattle.[12] During the same period approximately 400,000 people used the Empire Builder and its connections between Chicago and Seattle/Portland. (Id.) And these figures do not account for passengers formerly travelling trains discontinued in the cited case, but retained on the Western Star or Empire Builder.

"In our judgment there is clearly a need for some transcontinental service on both the former Great Northern and Northern Pacific corridors between St. Paul and Seattle/Portland—whether on an alternate day or some other basis. To insure preservation of transcontinental rail passenger service through the northern tier of states, the Commission finds that the establishment of St. Paul and Seattle as end points is essential and should be included in the basic system."

6. Service between Jacksonville and the Tampa-St. Petersburg area

Under the Secretary's proposed basic system, service is provided to Miami, Florida, from both Chicago and New York end points through Jacksonville. However the western part of Florida containing such cities as Tampa and St. Petersburg is not included. The Commission recommends the designation of St. Petersburg as an end point with Jacksonville in order that service to west Florida will be preserved. This will involve but a comparatively short extension of routes already designated.

The metropolitan population of the Tampa-St. Petersburg area is slightly under one million people and according to the 1970 Census ranks 32nd as a metropolitan area. And the population of the area has grown by nearly 30 percent in the last ten years. West Florida has a large number of elderly and retired people who are especially dependent upon rail service—a factor of even somewhat more potential significance in view

Footnotes at end of article.

of more restrictive driving license procedures adopted by Florida. In addition west Florida is also a vacation area, and the Senate Committee listed "heavily travelled vacation runs, such as New York-Florida" as among examples of service to be included in the new system.[13]

Currently, the merged Seaboard Coast Line operates three train pairs over two routes. Significantly two of these three pairs have never even been the subject of a discontinuance proceeding before us. Recently the railroad unsuccessfully sought to discontinue one pair which runs through Gainesville. In rejecting the proposal, even as to the least attractive trains serving the area, the hearing examiner found:[14]

"The testimony clearly shows that the downgrading of service, difficulty of obtaining information or tickets, lack of promotion could not help but contribute to a loss of passengers using the service of the railroad. . . . Nevertheless, taking into consideration the economic impact on the communities, the number of passengers still utilizing the trains, and the testimony of those who have used, are using, or intend to use the trains, and the lack of adequate alternate transportation, the need for continuance of the trains is shown to be required."

We urge the establishment of St. Petersburg and Jacksonville as end points to preserve this service.

FOOTNOTES

[1] The Southern Pacific trains actually originate or terminate at Oakland, California, with a bus proving service into San Francisco.

[2] Testimony by a Southern Pacific witness in our recent Sunset investigation shows that revenue retention on the tri-weekly Cascade may even have exceeded the carrier's estimate. Finance Docket 26324, Transcript of Hearings, Nov. 2, 1970, p. 130.

[3] The record in this case showed numerous complaints as to insufficient seating capacity, absence of baggage services, deletion of sleeping and dining facilities, unclean conditions on the train and in depots, refusal to sell tickets to patrons, denial of the existence of particular trains, locking of depots until after departure of trains, difficulties in making reservations by telephone, late arrivals, purposeful sidetracking for freights, and promotion of air and bus service by the railroad itself.

[4] Our records show numerous complaints as to the adequacy of this interchange. Our investigation of this arrangement has been stayed pending developments under the Rail Passenger Service Act.

[5] Sen. Report No. 91–765, 91st Cong., 2d Sess. (1970), p. 9.

[6] Cong. Rec., May 5, 1970, p. 14164.

[7] We foresee only one operational difficulty in that through trains between Washington and Harrisburg must be carried "backwards" between Washington and Baltimore as the Harrisburg line from Baltimore leaves from the south end of the station. This, of course, is a minor inconvenience and should not otherwise impair the implementation of a through Washington-Chicago route.

[8] *Chicago, Burlington & Q.R. Co. Discontinuance of Trains Nos. 51 and 52*, 366 I.C.C. 536 (1970; *Chicago, Milwaukee, St. P. & P.R. Co. Discontinuance of Trains Nos. 1 and 4*, 338 I.C.C. 93 (1970.)

[9] The Burlington Northern route traverses areas of the midwest for which interstate highways have not been designated and which, we are informed, have less than ideal highway conditions. Indeed we are told that only recently a billboard near Galena, Illinois offered "congratulations" to motorists for having "survived" U.S. Highway 20. In addition, air service, when available, is often more than double the rail fare. The Milwaukee route provides a one-stop express train service between Chicago and Milwaukee, a distance of 90 miles. Air service between Chicago and Milwaukee, though used by many persons, requires extensive travel to and from the Chicago airport, which is located more than one-fifth of the way to Milwaukee and involves at least 30 minutes of driving from or to downtown Chicago.

[10] Trains serve Portland directly with through cars being switched off at either Spokane or Pasco, Washington. Consequently, trains arrive at both Portland and Seattle at approximately the same time.

[11] *Northern Pacific Ry. Co. Discontinuance of Trains Nos. 1 and 2*, 333 I.C.C. 15 (1968), 336 I.C.C. 7 (1969).

[12] *Great Northern Ry. Co. Discontinuance of Trains Nos. 3 and 4, etc.*, 336 I.C.C. 477, 511–512 (1970). This proceeding dealt with other trains but furnishes a valuable source of information as to patronage of the Western Star and Empire Builder. Our figures here were computed by multiplying daily averages set out in the cited case.

[13] Senate Report *supra*. See also Congressional Record, *supra*, where the same language appears during the Senate debates.

[14] F.D. No. 25972, *Seaboard Coast Line Railroad Company Discontinuance of Trains Nos. 93 and 94 Between Jacksonville and St. Petersburg, Florida*, Examiner's Report, p. 25.

APPENDIX B-SECONDARY RECOMMENDATIONS

1. Salt Lake City-Butte

The proposed basic system does not include a north-south service between Salt Lake City and Butte. Both of these points are intermedaite points on those transcontinental routes from Chicago to the west coast.

The Commission has twice ordered continuance of the Butte-Salt Lake trains operated by the Union Pacific.[1] The first case allowed the carrier to reduce service to triweekly but the more recent case denied the proposed total discontinuance. Essentially, the Commission has found continuance warranted for four reasons: the reliance of people in the area on this service; the bridge this line provides between other transcontinental routings; the lack of adequate alternate service; and the carrier's failure to promote this service.

Of significance is the fact that the triweekly service has resulted in a patron retention rate of 83 percent, despite an overnight schedule and the railroads' failure to either publicize the trains or to arrange schedules facilitating expeditious connections.

Alternate service is widely circuitous and limited. Forty-six of the 51 stations have no bus service. Air service is infrequent and limited to the termini and two intermediate points. Roads are limited. There is only one through highway from Great Falls to Butte to Salt Lake City. It is only two-lane and not engineered to Interstate Highway standards. Heavy fog is frequent at the mountain passes throughout the year and frequently closes the highway and the airports. The Commission summed up the situation when it ordered a continuance:

"The severe nature of the terrain and weather, the very inaccessibility of certain subordinate areas to the general area involved as demonstrated by this record dictate a need for some rail passenger service since the alternate modes available are limited and uncompromisingly subject to the vagaries of weather". 333 I.C.C. 182, at 193; 338 I.C.C. 50 at 60, *supra*.

The Commission furthermore hoped that under Railpax, the Butte-Salt Lake City service would be returned to a *daily* operation.

The Commission further found that the carrier did nothing to promote service on the line (338 I.C.C. 50, 62). Despite the fact that the train passes through wild and spectacularly scenic areas, and is the western gateway to Yellowstone National Park and the only rail gateway to Grand Teton National Park, there has been no advertising to attract the tourist trade. Because of these factors, the losses sustained were felt to be partially if not wholly incurred by the carrier's own doing. They therefore should not be considered too seriously in view of the countervailing public interest in the continued operation of these trains.

Despite the fact that the present service connections on the Butte-Salt Lake City run leave much to be desired, nonetheless feeder value of the line is estimated at 30%. Feeder value has increased since the discontinuance of the Twin City-Kansas City line for the reason that Butte-Salt Lake City line is now the only way for people living in the northern Great Plains to reach Salt Lake City-Los Angeles and points south without having to travel either east to Chicago, or west to Seattle, in order to obtain connecting service. The Butte-Salt Lake City line cuts about 1,000 miles from either of these routes.

In sum, the line constitutes a necessary bridge between east-west corridor routes.

2. St. Louis-Kansas City

Under the Secretary's proposed plan, there is no way for a passenger to travel coast-to-coast except through Chicago. Therefore, the St. Louis-Kansas City route should be included. At one time, St. Louis was a ranking gateway on east-west transcontinental moves. It should develop as another across-the-country routing.

As late as April 1969, three pairs of trains ran between St. Louis and Kansas City. At that time, a pair of Norfolk and Western trains were allowed off by the Missouri Public Service Commission. That left two pairs operated by the Missouri Pacific. These were considered by this Commission in October 1969 (*Missouri Pac. R. Co. Discontinuance of Trains*, 334 I.C.C. 792) and one pair was allowed off although both pair are still running as a result of a court injunction. In that case, it was found that 42,000 persons rode the trains over the first six months of 1968. The daily average number of riders was 234 persons. In permitting one pair to be discontinued, the Commission felt that the remaining pair would attract additional riders—which, in fact, had already picked up a substantial number of passengers from the discontinued Norfolk and Western trains—greatly lowering the annual losses of $600,000 incurred by all four trains.

In addition to these factors showing the need for at least a pair of trains, an east-west corridor through the middle of the country should be established. St. Louis, which ranks as the 10th largest city of population, is an end point in the Washington, D.C.-St. Louis routing, which in turn ties in with the New York-Chicago routings. St. Louis also is an intermediate point on several of the north-south routes as well. Service should be continued across Missouri to Kansas City where connections can be made to the west coast.

3. St. Louis-Detroit

The Secretary's proposed basic system fails to provide direct service between Detroit and St. Louis, the country's 5th and 10th largest metropolitan areas, respectively, whose population exceeds 6 million. The Commission recommends the continuance of direct service between these points via the route of the Norfolk and Western's Wabash Cannonball.

Three times has that carrier sought to remove trains over this route. During 1967 the carrier unsuccessfully sought to discontinue the Cannonball, a single pair of trains operated daily over the 488-mile route. *Norfolk and Western Railway Co. Discontinuance of Trains Nos. 110 and 111 between St. Louis, Mo. and Chicago, Ill. and Trains Nos. 301 and 304 Between St. Louis, Mo. and Detroit, Mich.*, 331 I.C.C. 415. In ordering the trains continued for the maximum statutory period the Commission concluded:

"N&W provides the only noncircuitous rail-passenger service between St. Louis and Detroit (both large commercial and industrial

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Footnotes at end of article.

centers heavily populated); its trains serve a number of populous intermediate points; and the passenger patronage of at least six of the latter points indicates substantial reliance upon the subject trains. In 1966, both trains Nos. 301 and 304 averaged close to 100 passengers per trip. The alternate transportation of rail and bus is circuitous (via Chicago and Indianapolis), except for N&W's trains Nos. 302 and 303 which are night trains. While good highways comb the area, they too provide only circuitous routing most of the way. As to trains Nos. 301 and 304, we conclude that their continued operation is required by the public convenience and necessity." 331 I.C.C. 415, 441–442, *supra*.

Later, the carrier was successful in discontinuing the night pair of trains between the termini. *N&W Ry. Co. Discontinuance of Trains Nos. 302 and 303 Between St. Louis, Mo., and Detroit, Mich.*, 333 I.C.C. 284. One of the controlling factors in allowing these trains off was the fact that the Cannonball trains would remain and serve the same intermediate points.

A year later the Norfolk and Western sought again, unsuccessfully, to discontinue the Cannonball. *N&W Western Railway Company Discontinuance of Trains Nos. 301 and 304 Between St. Louis, Mo. and Detroit, Mich.*, 334 I.C.C. 506. Many factors present in the first case reappeared in this proceeding. For example, the patronage showed less than a 15 percent decline from 1966. Despite no effort to promote this service, the daily average exceeded 155 passengers and almost 60,000 patronized the train yearly.

The Commission observed that:

The record herein is convincing that the Cannonball meets a necessary and continuing public need. This was amply demonstrated by the intense interest manifested by the public witnesses and by their evidence introduced into this record. It is also exhibited by the fact that a very substantial number of passengers still patronize the trains.

As noted, some 58,538 fare-paying passengers used the subject trains in 1968. Of this total, about 16 percent were through passengers between Detroit and St. Louis. About 26 percent either originated or terminated their journey at Detroit or St. Louis. Thus, it is apparent that a majority of the passengers utilize the subject trains to and from rather sizable intermediate points.

Trains Nos. 301 and 304 represent the only remaining noncircuitous passenger trains between Detroit and St. Louis, and there is no alternate substitute service which parallels the route of the Cannonball. The alternate bus routes are through either Chicago or Indianapolis and many of the intermediate points are not located on existing bus routes. Other intermediate points have but limited bus service with infrequent schedules. Likewise, available air transportation is not convenient to many of the intermediate points. 334 I.C.C. 506, 522–523, *supra*.

The United States District Court for the Eastern District of Missouri recently sustained the Commission findings respecting the Cannonball. *N&W Ry. v. United States of America and Interstate Commerce Commission* (decided July 2, 1970).

The Commission's proceedings over the past three years show a continuing need for this service and it should be included.

4. Charlottesville-Norfolk/Portsmouth

Under the Secretary's proposed basic system service will be provided between St. Louis and Washington. One alternate route is via the Chesapeake & Ohio through Charlottesville to Cincinnati, then over the Baltimore and Ohio route to St. Louis. No service is provided to the Portsmouth/Norfolk area which has a metropolitan population of 633,000. The Commission recommends the continuance of service to this area via Charlottesville and Richmond.

Through these connections, the corporation could provide service for the tidewater area—with a population of 1,149,000—to New Orleans and the southwest; both north and south on the eastern seaboard; and to Cincinnati, Chicago and St. Louis and points west and northwest. Since this area also abounds with military installations the feeder value from this 175-mile route should be advantageous in making the overall rail service viable.

Prior to 1968 two pairs of trains operated between Portsmouth and Charlottesville. In authorizing the discontinuance of one pair of trains, the Commission relied heavily on the fact that rail service would still be provided. *Chesapeake & Ohio Railway Co. Discontinuance of Trains Nos. 43 and 46 Between Portsmouth and Charlottesville, Va., et al.*, 333 I.C.C. 95, 124.

It is noted that the basic system does not utilize the Norfolk and Western route between Norfolk and Cincinnati, via Petersburg and Lynchburg, in conjunction with the proposed end point pairs. The Norfolk & Western route, over which one pair of trains presently operates, closely parallels and is competitive with the Chesapeake & Ohio route. Deletion of the N&W route makes the retention of the C&O Charlottesville-Portsmouth route all the more important.

Considering the population of over one million, the abundant number of military installations located in the area, and the short distance involved, a sufficient number of passengers should be generated to warrant and support at least one pair of trains to serve this area.

5. Through service between Chicago and Boston—Boston-Albany as end points

Under the Secretary's proposal rail service west from Boston may only be provided if the Boston-Springfield-New York operation comes into being. And it would end there. Historically, the New York Central and its successor have operated through trains west from Boston, the eighth largest metropolitan area, to Chicago. The Commission urges the inclusion of this corridor in the basic system.

The Secretary has designated New York City and Buffalo as end points listing only the route via Albany. In 1965 in a proceeding before the Commission it was found that the Boston-Albany run provided substantial feeder value to the New York-Buffalo route and service between Boston-Albany was consequently ordered reinstated by the Commission.[2]

The 1968 attempt to discontinue these trains was disallowed by the Commission which ruled that the carrier had only "gone through the motions of restoring these trains to service." These trains had been discontinued but on reconsideration, ordered restored. When discontinuance was again sought in 1968, the Commission found that the carrier had "put forth no effort to advise the public of the available service, and could be said to have withheld this knowledge from the public by lack of timetable publication and failure to show all available connections. On-time performance has been bad. Further, when the carrier completely revised its New York State schedules in 1967, it made no attempt to adjust the schedules of these trains to provide convenient service to the public nor did respondent show that it made any effort to determine what would best meet the needs of the traveling public.

"In view of these considerations, we do not find the declining patronage to be controlling in this proceeding. While we are unable to determine on this record the precise effect that the Central's actions have had on passenger utilization of the service, it is clear that patronage has been adversely affected."[3]

Despite such downgrading, there were 38,179 passengers—over 100 passengers per trip—still using the Boston-Albany segment of the through service between Chicago and Boston.

In a later 1969[4] proceeding, this service was ordered continued despite the bankruptcy of the Penn Central because of the need for connecting service between Boston and the New York City-Buffalo Empire service and the importance of this connection to the viability of the entire Penn Central passenger system.

This routing would provide a northern corridor linking New England directly with Chicago which, under the preliminary proposal, is the gateway to the entire western United States and should be included.

Nos. 6, 7, 8, and 9—Establishment of international corridors

Under the proposed basic system, no Canadian-American or Mexican-American corridors are established. At present, international trains run between Seattle and Vancouver, Canada; Grand Forks, N.D., and Winnipeg, Canada; Chicago/Detroit and Toronto, Canada; New York and Montreal, and New York and Toronto. The Commission submits that certain of these Canadian-American as well as some Mexican-American corridors are important to the system. The rail travel needs of Americans are not confined within United States borders and the factors used in determining the system should likewise be used in establishing international corridors.

(a) Seattle-Vancouver

Presently the Burlington Northern operates daily service between Seattle and Vancouver, a distance of 155 miles. Seattle and Vancouver are university towns, housing the University of Washington and the University of British Columbia, respectively. The combined population of the two cities exceeds 2.4 million, with Seattle's population of 1.4 million making it the 18th largest city in the United States. The relative short distance involved considered with the Pacific northwest having the greatest rainfall of any area in the U.S., averaging some 80 inches per year, makes substitute air service unreliable and uneconomic.

Moreover, the Seattle area relies very heavily on tourism for its livelihood. The Seattle-Vancouver corridor is used heavily by organized tour companies as a connecting link on Pacific northwest tours and with Seattle as an end point on service from the midwest and pacific southwest, it is a natural extension of these routes. Elimination of this corridor would undoubtedly hurt tourism in the area in that Seattle could be bypassed by direct flights to the east and south from Vancouver. Faced with these considerations, omission of the Seattle-Vancouver corridor appears to be unwarranted. Its inclusion in the basic system is strongly urged.

(b) Chicago/Detroit-Toronto

Presently, the Canadian National and its subsidiary, the Grand Trunk Western, provide service between Chicago and Toronto via Port Huron, Michigan. Canadian National, by way of a 5-mile bus connection between Windsor, Ont., to Detroit, provides service between Detroit and Toronoto. The two routes converge at London, Ont., for the remaining 115 miles into Toronto. Assuming that Canadian National will desire to continue operation of the Canadian portion of both routes, we strongly urge the designation of the Grand Trunk Western 334-mile Port Huron-Chicago route and the preservation of the Detroit-Windsor connection.

Preservation of these routes will insure continued service over a corridor with a population greater than 13 million. The feeder value of traffic to and from Toronto, the second largest Canadian city with a population of over 3 million, constitutes an important source of patrons to the designated system. In a recent proceeding involving a pair of Grand Trunk Western trains operating be-

Footnotes at end of article.

tween Chicago and Port Huron (as part of a through service to and from Toronto), the evidence clearly shows the extensive international nature of this service. Of the total daily average of 202 passengers, 126 were classified as through passengers to and from points in Canada, 338 I.C.C. 254, 261. The Commission allowed the discontinuance because of the loss of the Canadian connection and stated:

"The riding public would not be without reasonable substitute transportation service after removal of trains Nos. 155 and 156. Grand Truck offers the service of one other train between Port Huron and Chicago, and a second train which serves all the major points reached by trains Nos. 155 and 156 with the exception of Flint and Port Huron. These pairs of trains operate essentially during daylight hours and generally have greater usage by the public than do the noticed trains." 338 I.C.C. 254, 275, *supra*.

In view of the demonstrated need for service between Chicago/Detroit and Toronto, as evidenced by the above proceeding and the remaining extensive service, it appears that the inclusion of this service within the system would be warranted and would insure the continued draw of Canadian patronage to other segments of the designated system.

(c) New York-Montreal

Presently, Penn Central and the Delaware and Hudson operate two pairs of trains between Montreal and New York. These trains provide a convenient service between the largest cities of Canada and the United States having a combined population exceeding 14 million. The carriers have not sought to reduce or discontinue this service before the Commission. Traffic congestion between Albany and New York City limits the feasibility of bus service during peak travel periods when food service plazas along the thruway are closed to buses. The air congestion at New York City needs no elaboration. Feeder traffic from the transcontinental Canadian lines converging at Montreal would be lost to the Railpax system and it appears that a single pair of trains might be feasible. The Commission therefore urges the addition of a New York-Montreal route to the basic system. Consideration should also be given to a possible routing through Vermont's principal cities, thereby linking northern New England to the national system.

(d) Chicago, San Antonio-Mexico City

For years passenger traffic from Mexico City and the entire population area of central Mexico has moved to and from the United States via Laredo, Texas. While there are other rail crossings on the U.S.-Mexican border, the majority of the passenger traffic has moved through the Laredo Gateway to San Antonio where it fanned out to Houston and points east or through St. Louis to points north.

There are 50 million people in Mexico (twice the number in Canada) who traditionally have looked to the United States, not only for manufactured products but for educational and cultural interchange between the nations. The past five or six administrations have actively propounded the "good neighbor policy" in a conscious effort to expand this interchange of educational and cultural affairs, in addition to a more generous flow of commerce in both directions. It is our view that this important international situation should not be overlooked.

We recommend that passenger service within the United States be reconnected to the Mexican National Railway passenger service at Laredo, Texas, and that it be tied into the proposed routing of passenger traffic from Houston to Chicago. This could be done by running the passenger service over the Missouri Pacific lines from Laredo via San Antonio and Austin to Milano Junction, Texas, where the Missouri Pacific crosses the Santa Fe. (This assumes that the proposed passenger service from Houston to Chicago will be routed via Santa Fe.) In case the proposed routing from Houston to Chicago should be over the Missouri Pacific lines to St. Louis, then the routing from Laredo through San Antonio and Austin would join the Missouri Pacific at Palestine, Texas.

FOOTNOTES

[1] *Union Pacific Railroad Company Discontinuance of Trains Nos. 35 and 36 Between Salt Lake City, Utah and Butte, Mont.*, 333 I.C.C. 182 (decided May 16, 1968) and 333 I.C.C. 50 (decided August 26, 1970).

[2] *N.Y.C. R.R. Co. Discontinuance*, 328 I.C.C. 89 at 91.

[3] 333 I.C.C. 375 at 391.

[4] F.D. 26106. *Penn Central Transportation Co. Discontinuance of 34 Passenger Trains.*

THE LEGAL SERVICES PROGRAM

Mr. PEARSON. Mr. President, since its inception our Nation has been dedicated to the concept of equal justice under law. The Congress, in an effort to ensure access to the judicial system to those unable to afford private counsel, has, for the past 6 years, provided a legal services program, which has handled more than 2 million cases on behalf of the poor. Less than 10 percent of these cases have dealt with welfare issues, but litigation in this area has produced several landmark decisions.

The bill as originally reported by Finance would have restricted the payment of Federal funds from those who participate in activities that could ultimately result in the nullification of acts of Congress. If enacted into law, this would have severely hampered legal services lawyers from further actions in welfare cases.

It is clear that Congress, in enacting the Economic Opportunity Act and providing for a program of legal services for the poor, recognized that, to insure full participation in the benefits of our society, the poor must be provided with legal assistance equivalent to that available to the nonpoor. Only with such assistance can the poor obtain equal access to and equal justice from the courts.

At the core of this concept of equal representation leading to equal justice is the professional duty and the concomitant freedom of the attorney to pursue whatever course of action is necessary to obtain his client's full legal rights. Congress recognized the necessity of insuring this freedom, when it provided in the Economic Opportunity Act that:

> Projects involving legal advice and representation shall be carried on in a way that assures maintenance of a lawyer-client relationship consistent with the best standards of the legal profession.

Adequate representation cannot exist when laws prevent an attorney from fulfilling his professional responsibility by restricting his freedom to deal with his client's legal problems.

The poor feel disenchanted with governmental institutions and suspicious of the judicial system since they have gained the least from the social order. This natural suspicion would have only been reinforced by a statutory provision which protects the system from challenge. The result would have been an erosion of confidence in the concept of governmentally provided legal assistance, and thus a diminishing willingness to utilize such legal assistance.

As we have a national commitment to justice, so also do we have a national commitment to providing assistance to the less fortunate among us. We can most effectively do this by new welfare legislation, rather than by limiting the ability of the poor to challenge such legislation in the courts. The poor have the greatest interest in the welfare system and, thus, should have the greatest freedom in subjecting that system to judicial review.

For these reasons, I am pleased that this language was part of that stricken from H.R. 17550 by the Long recommittal motion of yesterday.

Because of this language having been stricken from the bill as well as other sections and titles to which I took exception, I am pleased to vote for final passage of H.R. 17550, the Social Security Amendments of 1970.

THE BURGOS MILITARY COURT CASES

Mr. KENNEDY. Mr. President, without intending to interfere in the judicial process of any country, I must express my deep personal dismay that the military court in Burgos, Spain, has sentenced six Basque nationalists to death. The cases have now gone to General Franco and his cabinet, and I want to add my voice to those millions of others who are appealing to the Spanish Government for tolerance and compassion. Hopefully, General Franco will see the wisdom and rightness of clemency—for in societies torn apart, today in Spain and the Soviet Union, the only helpful approach is nonviolence.

On all sides, violence in the form of government executions or political terrorism is, I feel, a violation of human dignity and morality. And it also destroys the faith and confidence necessary to build a country and a better world for all mankind.

PLEDGE OF ALLEGIANCE

Mr. JAVITS. Mr. President, recently, I received a letter from Dr. Louis D'Ascoli, principal of Eastchester High School in Eastchester, N.Y., enclosing a petition signed by members of the student body of his school. These young people have been considering the language of the pledge of allegiance and have offered a suggested change in the wording. They asked that I introduce legislation substituting the word "seeking" for the word "with" in the final phrase so that it reads "seeking liberty and justice for all."

I have also received from Dr. James Allen, formerly U.S. Commissioner of Education, a proposed redraft of the pledge which he composed at the invitation of the editors of Look magazine. Dr. Allen would add only three words to the existing text.

I would hope that Members will have an opportunity to review both proposals during the recess, and ask unanimous consent that Dr. D'Ascoli's letter, Dr. Allen's proposal, and a story which appeared in the New York Times of Decem-

ber 10 concerning this matter be printed in the RECORD at this point.

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

EASTCHESTER SENIOR HIGH SCHOOL,
Eastchester, N.Y., November 6, 1970.

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

DEAR SENATOR JAVITS: Enclosed with this letter is a petition signed by many members of the student body and staff of the Eastchester Senior High School. The petition requests that you introduce legislation in Congress that would change the wording of the Pledge of Allegiance.

The change we are seeking is a simple one. It substitutes the word "seeking" for the word "with" in the final phrase.

The students who have initiated this petition and who are sponsoring a nation-wide campaign among high school and college youth, feel very strongly that the revised Pledge will describe our country more accurately than the Pledge does as it stands now. The description of a country that is "seeking" liberty and justice for all is a statement of national purpose that our young people can accept and support with no mental or moral reservation.

During the next month, petitions originating in the high schools and colleges of our country will be forwarded to the members of Congress. These petitions will urge them to support the legislation which we are asking you to introduce. We sincerely hope that you will comply with our request in the spirit that it is sent to you.

Your record in public life, particularly as our senior Senator, is one that all young people in our State accept as testimony of your integrity and high ideals. The understanding you have shown for the underprivileged and the disadvantaged and your concern for honesty, justice, and personal freedom under our laws has given you a stature with our young people that few legislators have ever acquired.

The young people in Eastchester Senior High School and their peers throughout the State are attempting to inaugurate a change that has deep significance to them by using the processes which are open to them under the law. It is a mature and responsible approach that we, in New York State, should view with pride.

I hope you share this view, and will sponsor, at your earliest convenience, legislation in the Congress of the United States that is necessary to effect this change.

Very truly yours,

LOUIS N. D'ASCOLI.

DR. ALLEN'S PLEDGE

I pledge allegiance to the flag of the United States of America and dedicate myself to the principle that the Republic for which it stands shall be in truth one Nation, under God, indivisible, dedicated to liberty and justice for all.

PRINCIPAL SEEKS A CHANGE IN THE PLEDGE OF ALLEGIANCE

EASTCHESTER, N.Y., Dec. 5.—The principal and senior class president of the senior high school here have begun what they say is a national campaign to change the wording of the Pledge of Allegiance to the flag.

Dr. Louis N. D'Ascoli and Amy Gruberg want to change the last phrase of the pledge from "with liberty and justice for all" to "seeking liberty and justice for all."

"The description of a country that is seeking liberty and justice for all is a statement of national purpose that our young people can accept and support with no mental or moral reservations" (Dr. D'Ascoli explained in a letter to Senator Jacob K. Javits, urging him to introduce legislation in the Senate to effect the change).

Miss Gruberg, with the aid of the student committee at Eastchester Senior High School, has sent letters to the student council presidents of 600 high schools in the state, askng them to circulate petitions supporting the change. Similar letters have been sent to statewide student council organizations in the other 49 states.

About half of the school's 900 students, and 12 of its 53 faculty members, signed the Eastchester petition, which was forwarded to Senator Javits.

Dr. D'Ascoli, who is in his ninth year as principal here, said that during the last several years individual students at the high school had objected to the daily recitation of the pledge.

"They couldn't buy that liberty and justice for all part, he said. 'They felt it was hypocritical as applied to blacks and other groups.' I would argue the Establishment position with them—you know, that we might not be there yet but that we're getting there—but they just wouldn't buy it."

He allowed students who objected to the pledge to leave their home rooms while it was being recited. Finally, in conversations this fall, the principal and Miss Gruberg arrived at the idea of trying to change the wording of the part of the pledge that the students found hardest to accept.

They considered such phrases as "in quest of liberty and justice" and "striving for liberty and justice," but finally chose "seeking" because "it's a nice mundane type of word," Dr. D'Ascoli said.

Most of his professional colleagues, he said, think that the change is a good idea; those who do not support the new phrase itself still support the approach that the students are taking.

"Some people say it goes too far and tell us that we can't change the whole world," he said. "Well, some things in the world do need changing."

But some students have criticized the proposal on the ground that it is not radical enough and the student newspaper here calls the change superficial.

"A lot of kids wonder if it will really make a difference," Miss Gruberg said. "We're trying to impress upon people that it is possible to make a change. If we all take the new language seriously and work toward it, we will bring about change in the country."

Until the new Pledge of Allegiance becomes official, however, home room teachers in the high school here will continue to lead their classes in the old version, Dr. D'Ascoli said.

IN RICHMOND AND PHOENIX MAN'S HOME IS NO LONGER HIS CASTLE

Mr. ERVIN. Mr. President, this is not the first occasion I have had to speak in this Chamber about frontal assaults on the fourth amendment's privilege against unreasonable search and seizure, and despite my fondest hopes and most fervent prayers to the contrary, I doubt that it will be the last. Two regrettable incidents have been called to my attention in recent days which compel me to raise my voice again to protest such attacks and to warn of unfortunate consequences if the fusillade continues.

Mr. President, painstaking care and wise judgment must be our constant watchwords whenever we deal with sanctity of the home, for our homes, no matter how humble, have traditionally been regarded as our castles. As William Pitt said in England in 1755 when arguing against an English law to permit unimpeded invasion of that sanctity:

The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail. Its roof may shake. The wind may blow through it. The storm may enter. The rain may enter. But the King of England cannot enter. All his force dares not cross the threshold of that ruined tenement.

I have always believed that we, as responsible legislators, ought not tempt officers of the law to violate precious individual rights secured at such great cost by our forefathers. We have, nevertheless, committed that error in this body on some occasions by passing laws, like "no knock" search laws, which are highly susceptible to abuse and which lead police into temptation at the expense of human liberty. When the Congress and State legislatures err in this fashion, our only hope is for responsible and enlightened execution of those laws which we mistakenly pass.

Each of the two recent and unfortunate occurrences to which I referred a few moments ago illustrates an error either in the enactment of laws or in the execution of laws affecting that vital and sensitive domain, a man's home—his castle. The consequences of these errors range from property damage and serious bodily harm to shaken, if not wholly destroyed faith in our government.

The first incident occurred in Richmond, Va., when a young businessman's locked apartment was entered at night during his absence by law enforcement agents in a manner befitting only thieves or burglars. Upon returning to his apartment around midnight to find it ransacked, the young man, in his words, "sat in amazement and began to reflect what I had read in '1984'—some 8 years prior—in high school."

In his letter to me he said:

I am a law-abiding citizen who has never looked for trouble and never had any—till now. My belief in the democratic system, as I have always known it, is dead. If my home isn't mine, then pray, God, what else is there?

Mr. President, this young man is simply and eloquently expressing once again what is perhaps the greatest longing of the human heart—the passionate hunger for a place to flee from the world, a place to communicate with members of one's family, a place to converse with one's God, a place to be free from molestation by any individual or by government. American patriots died in the flames of the Revolution to secure that right so that they and their posterity could regard their homes as their castles.

Perhaps the most tragic result of this incident is that a loyal citizen who has always placed great confidence in our system now feels betrayed by his Government. As he said:

The details of who issued the warrant or under what pretenses will be investigated—I assure you. But the trauma of what has happened won't wear off easily. My hopes for a true democratic system have taken a giant leap backwards.

Mr. President. I ask unanimous consent that the entire letter from this young man be placed in the RECORD at the conclusion of my remarks.

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

Mr. ERVIN. The second incident to which I wish to refer took place in Phoe-

nix, Ariz. It involved another nighttime search of a private dwelling, but in this case the premises were occupied. While there is an apparent dispute between the parties over whether the police gave notice of identity, authority, and purpose before entering, some facts are abundantly clear:

First. The parties sought by the police had moved out several days before the raid.

Second. The new occupants, a husband and wife and their two children, had not engaged in any activity to give rise to a police raid of any sort.

Third. The new occupants had posted a note on the mailbox by the front door to advise others that the former occupants no longer lived at that address.

Fourth. Entry at 1 o'clock in the morning was forced and against the will of the wife who fled to the bedroom with armed men in pursuit.

Fifth. The husband, in an effort to protect his home and family from intruders, fired a rifle at the unknown assailants.

Sixth. A police officer fired a pistol and wounded the husband who fell on the bed shot through the side and back.

Seventh. The wife resumed firing with the husband's rifle and literally shot the policeman's pistol out of his hand with the policeman losing two fingers in the process.

Eighth. One police officer then had the presence of mind to realize that a horrible mistake had been made, and the shooting stopped.

Mr. President, each party was acting on the facts as they understood them at the time; each was mistaken; each side suffered bodily harm; and each could easily have killed the other in the shootout. I ask unanimous consent that news accounts of this event from the Arizona Republic for November 16, 1970, and November 20, 1970, be inserted in the RECORD at the conclusion of my remarks.

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

Mr. ERVIN. Mr. President, if it were in order I would pose another unanimous-consent request. It would be that all of us in this body illuminate the darkest recesses of our minds long enough to recall some fundamental lessons in the constitutional history of our country.

We should remember that some 15 years prior to the American Revolution the British Government empowered its officer in the colonies to use writs of assistance to search the houses of the colonists for goods on which customs duties had not been paid. At that time a distinguished and able barrister from Boston, James Otis, held the position of King's advocate general of the vice-admiralty court and was expected to uphold the writs. We should remember his integrity and courage as he fearlessly resigned his position and argued the case against those abusive writs which would destroy the sanctity of the home.

Otis argued that—

> One of the most essential branches of English liberty is the freedom of one's house.

With uncommon eloquence destined to ring throughout the ages, he said:

> A man's house is his castle and whilst he is quiet, he is as well guarded as a prince in his castle.

James Otis opposed the authorization and use of those writs for the same reason that I have opposed "no knock" search authority and other abuses of police power destructive of the sanctity of our homes. He knew that if the writ should be declared legal it would annihilate the privilege that a man's home is his castle. In signaling the dangers of such writs, he said:

> Customhouse officers may enter our houses when they please; we are commanded to permit their entry. Their menial servants may enter, may break locks, bars, and everything in their way; and whether they break through malice or revenge, no man, no court, can inquire.

Mr. President, it saddens me to see how easily we forget the important lessons of history, for I know the truth of the adage that those who cannot remember the past are destined to relive it. I, for one, do not wish to see us relive the dark days of repression which gave rise to our revolution.

Although James Otis lost that case, the effects of his effort and eloquence were not lost to our country. A young man sitting in that courtroom, who was to become George Washington's Vice President and our second President, John Adams, later observed that—

> Otis' oration against the writs of assistance breathed into this Nation the breath of life . . . Otis was a flame of fire! . . . American independence was there and then born; the seeds of patriots and heroes were then and there sown . . . Every man of a crowded audience . . . appeared ready to take up arms against the writs of assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain.

Mr. President, our forebears suffered bitterly from the petulant abuses of the King's agents and fought a successful revolution to put a final end to such malevolent practices. How ironic it would be if, after acquiring our freedom from such abuses, we were to stand idly by and allow that pattern to assume its ugly form once again. The wise and courageous founders of our Nation sought to protect their posterity from such folly by enshrining the hard-earned right to be secure against unreasonable search and seizure in the fourth amendment to our Constitution. That fourth amendment declares:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.

As Bernard Schwartz has said in volume I of "Rights of the Person," part of his recent commentary on the Constitution:

> There can . . . be no doubt that, preoccupied as the Framers were with abusive exercises of powers of search—abuses so deeply felt by them as to be one of the potent causes of the Revolution—the amendment was primarily intended "to prevent . . . unlawful invasion of the sancity of the home." At the very core of the Fourth Amendment, the highest Court tells us, "stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion."

Mr. President, the fourth amendment is undermined each and every time incidents like those in Phoenix and Richmond occur. The confidence which law-abiding citizens have in their government dissipates. Sanctity of the home and personal privacy become weaker at a time when we must strengthen them. Individuality withers and the fresh pure air of freedom becomes fouled by the stench of repression.

I can only hope that those who have been given the new and awesome "no-knock" search authority, along with all their previously held authority to invade man's last privileged sanctuary, will remember the history and purpose of the fourth amendment. In conclusion, I commend to them these further thoughts of Mr. Schwartz on the fourth amendment:

> The Constitution, in thus safeguarding the sanctity of the home from unlawful governmental intrusion, ensures to the person a privileged sanctuary within which he can live his own life, sheltered from public supervision and scrutiny—a place where he can enjoy what William Faulkner has called that "last vestige of privacy without which man cannot be an individual." So long as such oases of privacy exist, there is still room for exercise of that individuality that distinguishes not only our species, but each of us from the other. "A man can still control a small part of his environment, his house; he can retreat thence from outsiders, secure in the knowledge that they cannot get at him without disobeying the Constitution. That is still a sizable hunk of liberty—worth protecting from encroachment.

The material furnished by Mr. ERVIN is as follows:

RICHMOND, VA.,
December 5, 1970.

Hon. SAM ERVIN,
U.S. Senate, Capitol Hill,
Washington, D.C.

DEAR SENATOR ERVIN: I am writing this personal letter to you in hopes that you will continue to understand the feelings of young Americans on the "no knock" provisions on Capitol Hill lately.

Even though I am a native Virginian, I have read much of your work and respect your knowledge on so many controversial issues that I decided to tell you, rather than anyone else of a personal experience which occurred only 48 hours ago in my apartment.

I share a 4 room nice apartment in the "fan district" near Virginia Commonwealth University with one other gentleman. He is 23 and a conscientious full-time student, while I am 26 and in business with my Dad, after graduating from the College of William and Mary.

On the evening of December 4, 1970, at approximately 8:15 P.M. my apartment was entered by the City of Richmond vice squad (no one was home and the door was locked) in search of illegal drugs. The entire apartment was searched and completely ransacked. Chaotic conditions existed when I found the apartment—about 11:45 P.M. that night. Neither myself nor my roommate have ever possessed any type of illegal drugs or "pot" in our apartment. No reason has ever been given to suspect that drugs of any type were on the premise. Yet when I returned home the place was in havoc. A search warrant was on the table to explain what had occurred.

I only sat in amazement and began to reflect what I had read in "1984"—some eight years prior in high school.

I talked to my parents' personal lawyer today, but he was not overly optimistic over the outcome of any legal action. My recourse now is unknown. All I ask is this . . .

If the U.S. Government can enter my personal property and legally do what they did—warrant or no warrant—then all of my personals are no longer mine. My house and all its contents now belong to the files of the United States Government. Not a pleasant thought. I am a law-abiding citizen who has never looked for trouble and never had any—till now. My belief in the democratic system, as I have always known it, is dead. If my own home isn't mine, then pray, God, what else is there?

The details of *who* issued the warrant or under what pretenses will be investigated—I assure you. But the trauma of what has happened won't wear off easily. My hopes for a true democratic system have taken a giant leap backwards, and I really can only express what it feels like to enter your home and see what has happened.

I consider the act the most dastardly attack on my own constitutional rights I have ever experienced, and will not soon forget it.

As of now I don't know what legal defense I have against such an occurrence again—but I hope to never have it happen again. Even mistakes can happen, and I know this was a hum-dinger, but I still cannot conceive of Federal (or even local) agents breaking into your own home and wrecking the contents.

This is all I can say.

If you find some spare time maybe you could drop me a line on your reactions to what I have just experienced. I would like to hear from you.

Thanks for taking time to read my letter. I hope it can do others some good.

Most sincerely,

(Signature deleted).

TWO WOUNDED IN POLICE RAID OVER MISUNDERSTANDING

(By Jack West)

The husband of a couple newly moved into a former hippie pad and a police officer were wounded early yesterday in a shoot-out caused by a misunderstanding, city police reported.

Investigators said narcotics officers were forcing their way into the house at 1038 N. 26th St. with a search warrant, unaware that the suspects they sought had moved out, when the shooting occurred between the couple and the patrolman.

Leslie West, 37, of the 26th Street address, was listed in good condition last night in St. Luke's Hospital, where he was treated for a bullet wound in the body. Police said they were told the bullet apparently struck no vital organs.

Detective Harry Burke of the Police Special Investigations Bureau was treated at Good Samaritan Hospital for a hand wound that cost him one finger and a portion of another.

Mrs. West, contacted at the hospital by telephone by an Arizona Republic reporter, said neither she nor her husband had any statement to make about the incident.

Detective Lowell Stricklin said investigation indicated that the shooting occurred this way:

Police, watching the house for several weeks, had information the former occupants were dealing in drugs. Early yesterday morning they went to the house with a search warrant, unaware that the suspects had moved out two or three days earlier and that the West family had moved in.

The Wests had been disturbed by a succession of rough-looking hippie types who stopped at the house to see the former occupants. The Wests affixed a note to the mailbox announcing that the house was now the residence of the West family and that the former occupants had moved. However, in the darkness, the raiders did not see the note.

Burke, with a uniformed officer at his side, rang the doorbell. When Mrs. West opened the door a crack, she was unable to see the uniformed officer. She also did not believe Burke, who was cleanshaven, short-haired and dressed in civilian clothes, was a police officer. When he flashed his badge, he told Mrs. West he was a policeman and announced that he had a search warrant and was going to search the house.

Mrs. West, apparently afraid that she was being confronted by hippies, tried to close the door. However, the officers, believing that she must be one of the suspects, pushed their way inside the darkened house. Mrs. West ran to the bedroom, screaming.

As Mrs. West ran into the bedroom her husband apparently believed his wife was being attacked and his home was being invaded by hippies. West grabbed his 30–30 rifle and began firing. Burke, guided by the muzzle flashes from the rifle, returned the fire and West fell when a bullet passed through his body from side to side.

Mrs. West picked up the rifle and began shooting. One of her shots hit Burke's hand, wounding him and shattering his 38-caliber revolver.

Sgt. William Stuff, one of the raiders, shouted for everyone to hold their fire and yelled that his men were police.

MISTAKEN SHOOTING VICTIM SUES CITY FOR $1.4 MILLION

(By Gene Luptak)

A Phoenix man, shot and wounded by police in his home in an incident police later admitted was a "misunderstanding," yesterday filed a $1.4 million lawsuit against the city and three policemen.

The Superior Court suit contended the police were guilty of gross negligence in the raid last Sunday on the home of Leslie West at 1038 N. 26th St.

The lawsuit said West, 37, was shot while lying in bed after three "hippie type characters" forced their way into his house, knocking his wife, Ann, to the floor.

The suit also named three policemen, Detective Harry Burke, who fired the shot which struck West, Detective Sgt. Lowell Strickland and Sgt. William Stull, as defendants.

On Nov. 9, the Wests and their two children, Bradley, 10, and Leslie Jr., 11, moved into the 26th Street house which "previously was occupied by narcotics users," the suit said.

While cleaning the house the same day, the couple found some narcotics and called police, who came to the house and confiscated it, the suit said. The Wests then posted their name on the mailbox.

Early Sunday morning, the lawsuit said, the Wests were awakened by barking dogs and they "observed men in hippie garb creeping around their home."

The lawsuit said that Mrs. West, while checking the locks on the door, was knocked to the floor when the three men forced their way into the house.

They chased her into the bedroom "and shot . . . West in the back," the lawsuit said.

Police at the time of the shooting contended that West, apparently believing his wife was being attacked and his home was being invaded by hippies, grabbed his 30-30 rifle and began firing. That was when Burke shot and hit West.

Police reports and the lawsuit agree that Mrs. West then picked up the rifle, shot and hit Burke, who is still in Good Samaritan Hospital for a hand wound that cost him one finger and a portion of another.

West is recovering from a back wound that required surgery at St. Luke's Hospital.

It wasn't until after the shooting that the intruders announced that they were police officers, the lawsuit said.

The lawsuit also contended the defendants, "after realizing their gross, wanton and willfully negligent acts, locked the Wests' children into the bedroom, refusing them bathroom privileges, and locked Mrs. West out of her home" while other police were summoned to investigate the incident.

"Ann West was forced to accompany police in a nightgown and a thin bathrobe and was treated roughly, rudely and with terrorist tactics until the early morning hours of Sunday," the lawsuit contended.

The lawsuit also blamed police for not taking West to the hospital until about an hour after he was was shot.

Specifically, the law suit contended that the defendants are being sued for "felonious assault with intent to kill, breaking and entering, assault and battery, wrongful arrest, violation of Civil Rights Act, and gross and wanton negligence."

Assistant Police Chief Richard Newton said yesterday that several hours before the incident, a police informer told police that there was a cache of narcotics in the West House.

Police had information the former occupants were dealing in drugs.

KEEPING A PROMISE

Mr. ALLOTT. Mr. President, Christmas has come and gone. A new year awaits us. In August Everett Alvarez will mark his seventh year in captivity in Southeast Asia. The war goes on. The mistreatment of our men continues. Nothing Hanoi has said or done has in any way indicated any willingness whatsoever to treat them with decency. The perverted cynicism of the rulers of Hanoi and their Communist stooges of the NLF stands for the whole world to see.

International indignation has its own force, as Hanoi will discover in due course. Nothing could so improve North Vietnam's image at the bar of world public opinion as the clear, unequivocal performance of its duties toward the prisoners. These duties are simple. They are clearly stated in the Geneva Convention which Hanoi signed. All we ask, in the name of humanity, is that Hanoi do what it promised.

LINING UP AGAINST THE FUTURE

Mr. McGOVERN. Mr. President, a military court in Burgos, Spain, has handed down death sentences for six persons of Basque nationality for alleged terrorist activities.

This cruel sentence demonstrates once again that the Franco regime is an authoritarian dictatorship which will brook no opposition. The Burgos death sentence is strikingly similar to the Leningrad death sentence of two Jews for their alleged participation in an airplane hijacking plot. Both are the products of regimes which are unsure of their power and which stand ready to condemn men simply because of their ethnic origin.

It is impossible to judge guilt or innocence in either case without full knowledge of the facts. But in both cases, the courts denied the defense the right to the same kind of cross-examination and freedom of speech as was enjoyed by the prosecution.

The case in Spain is particularly depressing. The United States claims Franco's Spain as an ally. An article by C. L. Sulzberger in The New York Times of December 27 indicates that American diplomats in Madrid are "outright regime supporters." We are isolating ourselves from the Spanish opposition which may one day lead that troubled nation.

It is time for the Nixon administration to change course. It should con-

demn injustice in Burgos and in Leningrad. It should recognize that our foreign policy will be only a hollow shell, if we do not have the moral strength to fight such injustice.

Mr. President, I ask unanimous consent that Mr. Sulzberger's article be printed in the RECORD at this point.

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

LINING UP AGAINST THE FUTURE

(By C. L. Sulzberger)

PARIS.—The crisis in Spain exposed as fallout from the trial of Basque extremists that the Franco regime is tottering and that when the sick old generalissimo goes there is likely to be a struggle for real power no matter who inherits the formal succession.

The sad thing is that the United States, in advance of this inevitable struggle, is seen by a powerful group of forces including the youth, the universities, the liberals, the intellectuals and large segments of the church and business as a right-wing influence committed to supporting the most reactionary solution.

This is especially tragic because it surely cannot be the intended U.S. position. Nevertheless, it is a fact. During a visit to Spain six months ago I talked with many opposition representatives, including former Cabinet ministers, ambassadors, professors, liberal monarchists, avowed Communists, students, workers and priests.

They disagreed with one another on almost everything except their dislike for Franco and their insistence that American Ambassador Robert Hill and his staff were such outright regime supporters that it was impossible for the opposition to have any contacts with them.

This is the sad truth as Spain prepares for a time of troubles when the attempt is made to continue Francoism without Franco, a virtual impossibility because, as a Jesuit priest told me: 'There are no valid institutions in Spain. Franco is the only institution, and most of those who back him today would not back his successors tomorrow.

After World War II Washington was in the van of those wanting to quarantine Franco and then, a few years later, led those who wished to attract Spain out of isolation. In each instance America was too enthusiastic, and in the latter case it is likely to pay for that excess of zeal.

I do not agree with those who believe the presence of U.S. bases in Spain is needless and who fail to see the useful relationship between American nuclear submarines at Rota and the eastern Mediterranean balance of power. But I do agree that Washington should display more interest in encouraging the pressures for freedom in Spain.

Right now the whole spectrum of opposition sees America as helping a dying dictatorship to survive and thereby hindering development of modern constitutional, parliamentary, industrial and trade union relationships and, moreover, separation of church and state, which so many Catholic priests desire.

It was little less than idiotic that Secretary of State Rogers refused, when visiting Madrid last spring, to see the opposition leaders who had asked for an audience. The men who wished to talk to the Secretary were internationally eminent and included Franco's own former ambassador to Washington. West German Foreign Minister Scheel had only recently received precisely the same group when he was in Spain.

American diplomacy has been myopic on Spain and allows a reasonable military desire for base rights to obscure everything else. This is particularly shortsighted because the Spanish regime is doomed and more than half the population is under 30 and unnecessarily anti-American.

We seem glued to the past rather than seeking to move with the future, backing vestigial facism against the masses and against a church fed up with obscurantism, an army fed up with corruption, a business community fed up with inefficiency and an intellectual community fed up with lack of freedom.

Both our diplomacy and our propaganda seem miscast. Representatives of the student junta at Madrid's huge university told me: "The majority of students and youth throughout the country are strongly against American policy. If America keeps helping Franco it makes it more difficult for a peaceful opposition take-over and encourages ultimate violence."

I quarrel less with U.S. policy than with its expression. We need Spanish bases and obviously must pay something for them, but we don't have to tie ourselves to a bad and dying regime. President Nixon rightly visited Madrid on a Mediterranean tour which could not properly include conferences with the opposition, but such was not the case with Secretary Roger's earlier trip.

Our embassy is accredited to the Spanish Government, but this doesn't mean it should isolate itself completely from the Spanish opposition. Change in these methods of diplomatic and propaganda expression is long overdue. If nothing else, the agonies symbolized by Basque extremism and the perceptible marshaling of pro- and anti-Franco forces as the old dictator wanes should emphasize this point.

THE 91ST SENATE HAS MADE A GOOD START ON THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in another couple of days the books will close on the 91st Congress. Unfortunately, these books will contain no record of final achievement on the Genocide Convention, the Convention on Forced Labor, and the Convention on the Political Rights of Women. These three human rights conventions of the United Nations have been before the Senate for years, and the Senate has yet to ratify them.

Nevertheless, this year has not been without achievement insofar as these conventions are concerned. The Genocide Convention, which has been before the Senate since 1950, has finally been reported to the floor by the Senate Foreign Relations Committee. It has taken 20 years to clear this hurdle. The fact that action was taken this year is a tribute to the chairman of the Foreign Relations Committee, Senator FULBRIGHT, the chairman of the Ad Hoc Subcommittee that held hearings on the Genocide Convention, Senator CHURCH, and the Senator from New York, Mr. JAVITS, who has worked tirelessly in behalf of the Genocide Convention.

Mr. President, the 91st Senate has made a good beginning—although a belated one—on the Genocide Convention. I look forward to early and favorable action by the 92d Senate in ratifying the Genocide Convention.

TRIBUTE TO SENATOR YARBOROUGH

Mr. METCALF. Mr. President, on October 19, 1963, I was privileged to attend in Austin, Tex., an appreciation dinner and statewide Texas salute to the senior Senator from Texas, RALPH YARBOROUGH. It was a memorable occasion honoring a distinguished American.

One of the most eloquent and moving tributes to Senator YARBOROUGH was a salute by J. Frank Dobie, renowned western historian, anthologist, author, and one of the great and respected citizens of Texas.

The high point of the evening was a filmed tribute by President John F. Kennedy.

At this time when we are saying a sad farewell to our departing colleague it is only fitting that we should recall the tributes President Kennedy and Frank Dobie paid to RALPH YARBOROUGH.

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

TEXT OF PRESIDENT JOHN F. KENNEDY'S MESSAGE ON FILM TO THE FRIENDS OF RALPH YARBOROUGH STATEWIDE TEXAS SALUTE, AUSTIN, TEX., OCTOBER 19, 1963

I am delighted to have this opportunity to join all of you in paying tribute to our mutual friend Ralph Yarborough, the Senior Senator from the State of Texas. Ralph Yarborough speaks for Texas in the United States Senate, and he also speaks for our nation, and he speaks for progress for our people.

I could talk about some of the things that Ralph Yarborough has done, about his work in education, education for all Americans, for veterans, for hospital care under social security, for an income tax cut to stimulate our economy and provide jobs for our people, for the nuclear test ban treaty, a step towards peace for human liberties, for the goals that bind Democrats together in this state and all over the Union.

But I shall mention two items which you might remember.

The first is my recollection of September, 1961 when Hurricane Carla struck Texas. Before the tidal waves receded Ralph Yarborough was at the door of the White House; before the winds died down, he was walking in the debris of the battered cities and towns on the Gulf Coast of Texas, asking, "What can I do to help?"

Secondly, I remember his fight for the bill to establish a national seashore recreational area on Padre Island. It's a shocking fact that this nation, this great country of ours with over 60,000 miles of seashore, has only a few hundred miles of shoreline actually available for the enjoyment and the use of most of our people—for the general public. That's why I took such pleasure on September 28 of last year in signing into law the bill establishing the Padre Island National Seashore Park, and I took pleasure also in handing one of the pens to Ralph Yarborough.

My fellow Democrats, this is a time when all of use who believe in government for the people, who believe in progress for our country, who believe in a fair chance for all of our citizens, who believe in the growth of Texas, who believe in the development of the United States, who believe in a strong United States as a great bulwark for freedom, who believe in a United States which is second to none in space, on the sea, on the land, a United States which stands for progress—all of those—I think Ralph Yarborough stands with them.

And it's a pleasure to salute all of you who are working with Ralph Yarborough to make a better state and a better country.

Thank you.

SALUTE TO SENATOR RALPH YARBOROUGH

I salute Ralph Yarborough not as a Liberal nor as a Conservative. It is not enough that the elected representative of liberal-voting citizens be liberal; it is not enough that the representatives of conservative-voting citizens be conservative.

While the great Edmund Burke was in a race to be elected from Bristol to the House of Commons, he said, in effect, to the voters: "My opponent promises that if elected he will vote according to your will, as you choose. I can only promise to inform myself on issues and to vote as an informed conscience directs." A thoroughly informed conscience is a rarity.

I have known Ralph Yarborough as friend and man for many years. He is perhaps the best read man that Texas has ever sent to Washington. His cultivated and disciplined mind is always seeking information on subjects that government must act upon. Like other individuals, he travels in a certain direction, but his mind is not closed to facts and conditions warranting a change of mind. The power of intellect to weigh knowledge and to judge justly is his.

We are all for gain. I myself should not always promise and vote as Senator Ralph Yarborough has promised and voted, but mark this: The only gain he has ever sought, consistently or inconsistently, has been public gain. He does not try to milk the public for private profit. He seeks the good of people. Nor is his consideration of humanity provincial-minded.

Every man and every woman is judged by his or her sense of values. Whenever the majority of others in any democracy have a high sense of values that country will have become a Utopia. When values of life—values beyond money, values that express civilization, enlightenment and justice for the human race come up, we can count on Senator Ralph Yarborough to stand for those values.

I salute him for his sense of civilized values, for his sense of justice, for his enlightened intellect, for his decency as a human being, and for his integrity.

J. FRANK DOBIE.

TRIBUTE FOR SENATOR YOUNG OF OHIO

Mr. McGEE. Mr. President, as a Member of the Senate's class of 1958, I feel particular affection for our colleague from Ohio (Mr. YOUNG), who, having chosen to enjoy the just desserts of his long and valuable service, is serving his last days of his second term in this body before retiring.

If youth, Mr. President, is truly a condition of the mind, then the Senator from Ohio is among the younger Members of this body. Certainly, this is amply demonstrated by his continued vigor and the pace of his work as he goes about serving those who have honored him with high public trust, as well as all citizens of this Nation.

A long career as a public servant comes to a close with the end of this session, a career marked by legal service and lawmaking at both the State and Federal level, including four terms in the U.S. House of Representatives and two in the Senate of the United States. It has been not only a long career, but an admirable one. And I am confident that retirement from the Senate is not going to be retirement per se for our friend and colleague from Cleveland. Circumstances prevented me from being present when tribute was paid Senator YOUNG on yesterday, but I do want to join my voice in that tribute and wish Senator YOUNG many more years of happiness along with his wife Rachel.

MORE ON ARMY POLITICAL SURVEILLANCE

Mr. ERVIN. Mr. President, on December 16, I related to the Senate the substance of allegations made by Mr. John O'Brien, a former agent of military intelligence, concerning Army surveillance of Federal, State, and local officials and other citizens not holding public office. These allegations have created an uproar in the country and caused a considerable amount of legitimate concern. Details of Mr. O'Brien's allegations are contained in a number of news stories by Jared Stout of the Newhouse News Service. Of course, the full story remains to be discovered. In order that the Senate have as much information as can now be made available, I ask unanimous consent that copies of these news stories be printed in the RECORD at the conclusion of my remarks. I also ask unanimous consent that copies of the official statements issued by the Army in response to these allegations be included in the RECORD.

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

(See exhibit 1.)

Mr. ERVIN. Mr. President, the sensational nature of these charges and refutations ought not distract us from the main issue; that is: Did the Army, whether purposefully or accidentally, become engaged in the collection of information relating to legitimate political activities of American citizens, whether public officials or not? How did this happen, and why was it allowed to happen? What can be done to insure that it does not happen again?

As I stated a few days ago, this controversy is only part of the larger, more complicated and more serious problem of the impact of official data gathering upon the individual rights of American citizens. Most of this data collection is done for legitimate and socially beneficial purposes. Yet the fact remains that it is being undertaken with little or no protection for the individual citizen and insufficient reflection on the long-term consequences to American freedom. The Constitutional Rights Subcommittee hearings in February will probe deeply into this Army affair. But we will not be concerned solely with that issue. The Army political surveillance must be viewed against the background of the entire panoply of Government information gathering and the progressive computerization of the American citizen.

(EXHIBIT 1)

[From the Evening Star, Dec. 16, 1970]

EX-GI TELLS OF CIVILIAN FILE: ARMY SPIED ON POLITICIANS

(By Jared Stout)

A former Army undercover agent says top-ranking federal and state officials in Illinois, including Sen. Adlai E. Stevenson III, D-Ill., were secretly watched by Army intelligence operatives.

Former agent John M. O'Brien, who said, "I was a domestic spy for the Army," also named Rep. Abner Mikva, D-Ill., and U.S. Circuit Court Judge Otto Kerner, the former governor and chairman of President Johnson's Commission on Violence, as targets of military surveillance.

"The Army wanted to determine their political views so that in certain situations we would know how they would react; whether they would condone violence or be for nonviolence," O'Brien said in an interview.

The surveillance was part of an Illinois-wide effort to get the names and background on anyone who opposed Vietnam war policy or "who openly opposed the Nixon administration's controversial domestic policies," the former agent said.

O'Brien, a former staff sergeant, said the spying was done by the Region 1 office of the 113th Military Intelligence Group (MIG) in Chicago and was paralleled by other Army intelligence units across the country.

O'Brien said that from June 1969, until his honorable discharge as a staff sergeant on June 8, 1970:

"My entire effort as a military intelligence agent was directed toward the offensive activities conducted by the Army involving collection of information pertaining to individuals and organizations decreed by the Army to be subversive in nature."

According to O'Brien, the officials he named were among 800 persons on whom the 113th Military Intelligence Group kept dossiers. He said the records were called "the subversives file."

O'Brien said the file comprised 120-feet of Manila folders in four file drawers and was kept at Region 1 headquarters at 2231 W. Howard St. in Chicago. O'Brien said he worked there as an agent from June 1969, until his discharge.

The Chicago area native had been assigned to intelligence duties in Germany for his four previous years of Army service. He said he joined the service in August 1965 after his funds ran out during his junior year at Loyola University.

O'Brien said his own spy work involved antiwar protest groups and that he participated in direct surveillance of meetings held by Students for a Democratic Society and the Chicago Peace Council, among others.

In his position, he said he had frequent access to the 113th files and it was from his recollection of those files that he told his story. He had no physical evidence of the files or the reports that filled them.

O'Brien said in his first indoctrination briefing at the 113th, he was told that "we would be targeted against civilians." He said his superiors justified the activity this way:

"Certain elements of our society have resorted to illegal methods to attain political recognition and eventually their own political goals.

"These elements have resorted, in many instances, to use of violence and the infiltration of nonpolitical elements of our society. Such elements represent a direct threat to the existence of the constitutional form of government in the United States and the general well being of our society."

"Therefore, all attempts were made to monitor the activities of such elements," O'Brien said, adding that they ranged from the Daughters of the American Revolution to Alabama Gov. George C. Wallace and Bobby Seale of the Panthers.

"My superiors told me it was the responsibility of the Army to maintain watch over potentially dangerous organizations and individuals," O'Brien said.

When he suggested this was a job for civilian agencies, O'Brien said he was told the FBI and Secret Service were short of men and "did not have the availability of personnel as did the Army."

O'Brien said he never saw any Army directives spelling out this civilian activity. "It just was the understood policy of how we were to operate," he said.

O'Brien said the 113th MIG's judgments on who would be watched was based, in part, on a political standard that put William F. Buckley Jr., a conservative columnist, "just left of center" and Sens. Eugene J. McCar-

thy, D-Minn. and George McGovern, D-S.D., on the "far left."

The "new left" in Army parlance was "virtually equal to Communist," O'Brien said.

What triggered his disenchantment with his unit's activities, O'Brien said, was the designation of Adlai Stevenson III as a surveillance target in September 1969. At that time Stevenson was Illinois state treasurer and had staged a picnic at his family farm in Libertyville, Ill., that was to prelude his candidacy for the Senate.

Several political powers attended the picnic, including Chicago Mayor Richard J. Daley and Negro leader Jesse Jackson.

Also among the crowd was a military intelligence agent assigned to watch Jackson.

During the course of the picnic, the Army agent took a photograph of Jackson whispering in Stevenson's ear. The picture and an agent report describing the event and "the new relationship" between Jackson and Stevenson was sent through intelligence channels to Ft. Holabird, Md., a collection center for the Army's domestic intelligence.

After that picnic, O'Brien said, "military intelligence agents of the 113th covered every appearance of Stevenson in Chicago, at least up to June 1970," when O'Brien was discharged.

Mikva became a person of interest "because of his outspoken criticism of (Vietnam) war policy and because he aided draft resisters," said O'Brien.

Judge Kerner was not subject to direct surveillance, O'Brien said "as far as he knew." "We just started keeping files on him after the commission report." The report of Kerner's violence commission said there was no evidence of a conspiracy in urban violence.

MILITARY SPIES AND THE PRESS

(By Jared Stout)

WASHINGTON.—A $250,000 contributor to President Nixon's campaign, Chicago insurance executive W. Clement Stone, was watched by army intelligence agents for at least a year, because he once loaned money to a street gang to open a store and restaurant.

At the same time, the army undercover men also kept close watch and detailed files on the activities of two Chicago newsmen, two negro aldermen, and the wife of a millionaire Chicago lawyer who was a prominent backer of Sen. Eugene J. McCarthy.

All of the individuals—Stone, Henry Dezutter of the Chicago Daily News, Morton Kondracke of the Chicago Sun-Times, aldermen William Cousins, Jr., and A. A. (Sammy) Rayner, Jr., and Lucy Montgomery, the lawyer's wife—were tucked away in a massive "subversives file" maintained by the army.

These new disclosures were made Wednesday by former army spy John M. O'Brien in an interview. Earlier, O'Brien revealed military spying on several top-ranked Illinois political figures.

O'Brien said Sen. Adlai E. Stevenson III D–Ill.), Rep. Abner Mikva (D–Ill.), and U.S. Circuit Court Judge Otto Kerner were targets of his former unit, the region one office of the 113th Military Intelligence Group (MIG) in Chicago.

O'Brien was assigned as an undercover agent for the 113th MIG from June, 1969, until his honorable discharge as a staff sergeant on June 8, 1970. His personal account of political spying during his service with the 113th MIG provoked outrage in Congress Wednesday and demands for a full public disclosure of army activities.

Irate lawmakers wanted to know why political figures and other prominent Chicagoans were watched, and became part of what O'Brien called "a subversives file" for 800 Illinois individuals and organizations.

Chairman George H. Mahon of the House Appropriations Committee promised an investigation of the reported spying, saying "we will do all we can to prevent its recurrence." Mahon, who also heads the Defense Appropriations Subcommittee that controls military intelligence funds said the acts were "an outrage."

Mikva said of O'Brien's account, "the implications of this for the country are horrifying. The whole concept of civilian control of the military is in jeopardy, and if this thing is not stopped, all the people will have left to do is salute."

Stevenson told a news conference that "as long as this remains a free country the people will judge their elected officials—not the army."

"There is no place in a free society for snooping by the military in the peaceful political affairs of citizens," Stevenson said.

On the Senate floor, Sen. Sam J. Ervin (D-N.C.) said O'Brien would be called to testify before his Subcommittee on Constitutional Rights, which will hold February hearings on military spying and the secret creation of a domestic intelligence network.

At the White House, Presidential News Secretary Ronald L. Ziegler said it was "inconceivable" to President Nixon that such activities were going on. He told reporters Defense Secretary Melvin Laird was looking into the situation.

Ziegler said, "We certainly don't condone that activity," and that Laird would put a stop to it, if he found the surveillance effort was still going on.

While Congress pressed for an inquiry, O'Brien revealed these other aspects of the 113th MIG's operations:

Clement Stone, 68, was selected for surveillance because of his $60,000 loan to the Vice Lords, a Chicago street gang. The money was intended to help the gang open a restaurant and store on Chicago's West Side. But it was enough of a link to a group considered "possibly subversive" by the Army to warrant a file on Stone, O'Brien said.

Stone is president of the Combined Insurance Company of America. By his own claim, he gave more than $1 million to Republican candidates in 1968, plus $250,000 to the Nixon-Agnew ticket. Those who know him in Chicago consider him a conservative prone to charitable works.

Stone's book on the power of a positive mental attitude is said to have been a source of inspiration to Nixon. He is known as the "Mr. Big" in the Illinois GOP's money circles.

Lucy Montgomery is the wife of millionaire lawyer Kenneth F. Montgomery who came to public attention in the Chicago area as a contributor and backer of Senator McCarthy's Presidential campaign. She has long been a backer of liberal causes. O'Brien said Mrs. Montgomery's file included "intimate details of her personal life."

Aldermen Cousins and Rayner have been outspoken black members of the Board of Aldermen controlled by Mayor Richard J. Daley. They have voted frequently against the Daley machine position.

Army interest was sparked by Rayner's ties to Chicago street gangs, particularly the Black P-Stone Nation. He has worked to move the gangs into legitimate enterprises.

Cousins came to Army attention as a strong supporter of the Rev. Jesse Jackson, another black Chicago leader prominent in the Southern Christian Leadership Conference. Jackson was also watched by the 113th MIG.

Judge Kerner came to the unit's attention after the National Violence Commission made its finding that riots were not caused by a national conspiracy, a view that O'Brien said differed from the Army's belief a conspiracy did exist. A former Governor of Illinois, Kerner was commission chairman.

The 113th MIG clipped from newspapers all accounts of the Kerner Commission report and called the Illinois State Police and Springfield Ill., police to see if they had any personal information on Kerner. Both agencies supplied some data, O'Brien said.

Newsmen Dezutter and Kondracke were interesting to the 113th Mig because of their sometimes critical stories on Vietnam war policy in their coverage of the war protest movement, O'Brien said. Both men's articles were clipped from newspapers. Some personal data on their personal lives also were included in their files.

A third newsman's writings, James Singer of the Chicago Sun-Times, also were kept. He, too, had covered protest demonstrations.

Dezutter is the education writer and Chicago Daily News reporter assigned to coverage of the protest movement in Chicago. Kondracke is assigned to the Sun-Times Washington Bureau, Singer works for the Sun-Times in Chicago.

At the Pentagon, Army General Counsel Robert E. Jordan III did not deny intelligence information on political activity in the Chicago area had been collected.

But Jordan insisted "current Army policy specifically and emphatically prohibits collection of any information of the type referred to in these allegations."

In earlier statements, however, Jordan has conceded the Pentagon's civilian leaders did not know how far Army field commanders may have gone in the domestic intelligence area.

STATEMENT OF ARMY GENERAL COUNSEL ROBERT E. JORDAN III, DECEMBER 16, 1970

I have seen a number of allegations that Army intelligence personnel have, in the past, gathered information about political figures in the Chicago area.

The Department of Defense and the Department of the Army are, of course, gravely concerned about these reports. And we are checking into them at this time.

I want to make it very clear that current Army policy specifically and emphatically prohibits collection of any information of the type referred to in these allegations.

A series of new policies issued over the past two years has strictly confined Army intelligence activities to a very narrow area related to certain tightly-defined Army responsibilities.

Army intelligence is not authorized to gather information on political activities, or on the activities of political leaders. Intelligence personnel are restricted to normal personnel-security activities and to certain activities related to direct threats against Federal property or personnel.

In addition, a former program concerning information related to possible civil disturbances has been dramatically curtailed. No collection, reporting, or storage of information in this area is allowed without prior order from the Army's civilian secretariat. And such an order would be given only when the employment of Army troops to assist State and local officials in a disorder seems imminent.

In any active civil disturbance situation the Army would, of course, be working closely with officials of the Department of Justice.

I want to emphasize that the civil disturbance information which had been previously collected was ordered destroyed on June 9th of this year.

The Army's new policies of strict control in this area are contained in documents readily available to the public, to the press and to the Congress. The civil and military leadership of the Department of Defense and the Department of the Army have taken steps to insure that Army intelligence activities are strictly limited to our narrowly defined and limited responsibilities.

We will, of course, be continuing our close attention to this matter.

STATEMENT BY SECRETARY OF THE ARMY STANLEY R. RESOR, DECEMBER 17, 1970

As was stated yesterday by Army General Counsel, Robert E. Jordan, III, the Depart-

ment of Defense and the Department of the Army are gravely concerned about the allegations that Army intelligence personnel have gathered information on political figures. It was also stated yesterday that we are checking into these allegations.

A preliminary check has been completed. On the basis of information I have received, I can state that neither Senator Stevenson, Representative Mikva nor former Governor Kerner are or ever have been the subject of military intelligence activities or investigations related to political activities. Allegations to the contrary are without foundation in fact.

I want to emphasize that had any such alleged activities been conducted, they would have been in violation of Army policies.

With regard to Judge Kerner, as is the case with other general officers in the National Guard, there is in the files a copy of a background investigation in connection with his military duties. The last entry was in 1952.

The Department of the Army has reported to Senator Ervin and to others, including the press, the restrictions which have been imposed on the collection and retention of intelligence information. I want to re-affirm the Army's desire to continue its full cooperation with Senator Ervin and other Members of Congress who share my concern that there must be no abuses whatsoever of military intelligence responsibilities.

DEPARTMENT OF DEFENSE INTELLIGENCE AND COUNTERINTELLIGENCE

Memorandum for: Secretaries of the Military Departments, Chairman, JCS, and Directors of the Defense Agencies.

Policy Objectives. I want to be certain that Department of Defense intelligence and counterintelligence activities are completely consistent with constitutional rights, all other legal provisions. and national security needs. These activities must be conducted in a manner which recognizes and preserves individual human rights. Policy determinations governing such activities must be retained under civilian cognizance and control.

One matter of particular concern to me is the one related to intelligence and counterintelligence activities involving the use of investigative and counterintelligence personnel. Actions have been taken to eliminate some past abuses incident to such activities, but further corrective actions are necessary as a matter of urgent priority.

Specific Actions. The remedial actions directed below will take effect at the earliest date practical, but not later than 1 February 1971:

a. Assistant Secretary of Defense Robert F. Froehlke, who is my Special Assistant for Intelligence, in consultation with the Secretaries of the Military Departments, will review all policy directives relating to the conduct of investigative and counterintelligence activities and propose changes to insure that Defense policy is clear and consistent with my policy objectives. He will provide for a continuing review of the changes in organizational responsibilities, procedures and practices directed by this memorandum.

b. The Director, Defense Intelligence Agency (DIA) will report directly to the Secretary of Defense in the conduct and performance of his duties. The chain of command shall run from the Secretary of Defense to the Director, DIA. Guidance to the Director, DIA, shall be furnished by the Secretary of Defense and the United States Intelligence Board (USIB). The Director, DIA, will support the intelligence and counterintelligence requirements of the Joint Chiefs of Staff (JCS) as in the past. A separate J-2 organization within the OJCS will not be reestablished.

c. In addition to his presently assigned duties, the Director, DIA, shall implement my policies and be responsible to me for the planning, conduct, and operational control of all direct intelligence collection by human resources and counterintelligence investigative functions throughout the Department of Defense. Pending promulgation of DIA instructions, all activities and resources within these subject areas (including personnel, funds, equipment, and facilities) will be maintained and conducted at the currently approved or approved-for-planning levels. The Director, DIA, is authorized to delegate operational control to the appropriate Service or operating command. This delegation will be accomplished on a function-by-function basis.

Informing Congress and the Public. Because of the understandable public interest in this matter, it is my desire that, after plans, policies and procedures necessary to establish DIA control over all human resource activities in the Services as related to intelligence and counterintelligence are completed, my Special Assistant for Intelligence will hold a news briefing to inform the American public about the changes being made from past procedures. Concurrently, appropriate committees of the Congress will be informed of these actions.

SWAN SONG BY KENNETH CRAWFORD

Mr. McGEE. Mr. President, I wish to take but a moment today to pay respects to a distinguished journalist, Kenneth Crawford, who bowed out last week with his Swan Song column in Newsweek, retiring after a generation of reporting from Washington.

As always, Ken Crawford was well worth reading in his last offering in Newsweek, for he has managed to put things in focus and come up with, of all things in these troubled times, an optimistic "hunch" that man, and notably the American, is too resilient to stamp out. He thinks we can muddle through. I ask unanimous consent that Ken Crawford's final Newsweek column be printed in the RECORD.

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

SWAN SONG

(By Kenneth Crawford)

Anyone who has lived as an adult through the last half century aware of what was going on has seen more history in the making than anyone who ever lived before him. There has been more change, more cataclysm, more invention, more progress in some areas and more deterioration in others than ever happened in any previous 50 years.

Anyone who has been a professional observer of public affairs through this period, most of the time here in Washington, as I have, has never had a chance to be bored. Neither has he had much of a chance to cogitate about the whither of events or to acquire any special wisdom. Anyway, journalists aren't paid to be wise, only to be agile enough to describe what's happening while it happens. It is left to wiser men in think tanks to add it all up. They try, but no two tanks get quite the same answers.

Some thinkers believe that man will commit suicide with the nuclear weapons his ingenuity has provided. Others are convinced that he will destroy his environment to satisfy his cupidity. Still others expect him to breed himself out of living space. A few feel that his ingenuity, cupidity and self-perpetuating urge, the very qualities that threaten him, will also save him, that he will come to see that none of his ambitions can be realized without exercise of restraint. The next 50 years will be crucial.

RESILIENT SPECIES

This being my last column before retirement, I wish I had the prescience to predict the outcome. All I have is a hunch, derived from witness of the past, that man—notably American man—has a future. He is a tough and resilient species. In my time he has been through two world wars and several lesser wars, a Great Depression and uncounted economic recessions; he has survived Prohibition, flood, hurricane, riot and his own follies. He is not easy to stamp out.

When I arrived in Washington in the 1920s the world was at peace, Coolidge slept in the White House and established Washington correspondents wore spats, carried canes and gave themselves airs. Had there been cooling apparatus, a later development, this Capital would have been as comfortable as it was smug. H. L. Mencken jabbed at complacency from one side and Norman Thomas from the other but nobody so much as said "ouch." Hoover would soon be projecting two cars for every garage.

When Hoover failed to deliver, the laissez-faire bubble burst, materializing Roosevelt and the New Deal. Washington has never been the same since. Neither has the country, nor, indeed, the world. At last it was being recognized that a society run out of frontiers, sustained by an increasingly complex and interdependent economy, had to submit to more government direction and control than it liked if it was to avoid periodic paralysis and chronic chaos.

FAIR PLAY

The second world war interrupted, but did not stop, the Roosevelt revolution. Europe had to be saved from Hitler and was. Few foresaw that Stalin would replace Hitler as a world menace once the war was won. But Stalin did and hot war passed into the cold war that is still going on, much as its ongoing is denied by those determined to see no evil. Meanwhile, the struggle continues to achieve a workable mixed economy, privately run but government manipulated, and a welfare state capable of giving practical expression to the nation's compassion and sense of fair play, much as these sentiments are denied by those determined to see no good.

To some of us who have lived with this struggle over the years, the young and their journalistic spokesmen, who think they invented compassion and sensitivity to public morals, are a little hard to take. Even their ultimate example of immorality, the war in Vietnam, was in its genesis highly, if mistakenly, moral—an undertaking to protect a weak but potentially free nation from a strong but regimented neighbor. We would perhaps be more tolerant of the young if we occasionally paused to remember how we bedeviled the "merchants of death" of the first world war and the national leadership in the Coolidge and Hoover Administrations.

As for myself I am hopeful that my grandchildren will have a decent world to live in and that the nation will muddle through, as it always has. And I am grateful that when I left the campus, a certified B.A. but with no immediately useful equipment except ability to write a declarative sentence, I could think of no way to earn a living except in journalism.

DOCTORS OVERCOME PROMOTION OF DIET CONTROL DRUGS AND OPPOSE THEIR USE FOR CONTROL OF OBESITY

Mr. MOSS. Mr. President, in September the Consumer Subcommittee held hearings to inquire into the relationship between advertising and drug abuse. The

testimony was most interesting and while somewhat inconclusive clearly indicates that further study of this area is merited.

One aspect of the drug advertising problem discussed in the hearings concerned trade promotion of drugs sold to doctors. The hearings disclosed that many patients who use and abuse amphetamines first encountered these drugs when they were prescribed for routine diet control. It was also learned that some doctors prescribe these drugs on the basis of advertisements in medical journals that read, for example, "Swimsuit by Jantzen, body by Dexaspan."

I was recently informed that the Utah Society of Internal Medicine has adopted a resolution stating that this group of doctors will no longer prescribe amphetamines for the treatment of obesity.

I congratulate the society on this action and hope that the efforts of these doctors will be a first step toward nationwide control of the promotion and use of ethical drugs which constitute a serious problem when their use is abused.

I ask unanimous consent that the resolution of the Utah Society of Internal Medicine regarding the prescribing of amphetamines adopted on November 17, 1970, and the letter of Robert K. Maddock, chairman of the public relations committee of the society to me of November 27, 1970, be printed in the RECORD at this point.

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

UTAH SOCIETY OF INTERNAL MEDICINE,
Salt Lake City, Utah, November 27, 1970.
Senator FRANK E. MOSS,
Salt Lake City, Utah.

DEAR SENATOR MOSS: From your recent hearings on possible enhancement of the drug culture by TV commercials, it is obvious that you are deeply concerned, as are we, to do something about the drug problem. Of the various facets of drug abuse, it seemed to us that the amphetamines offered an area in which the Utah Society of Internal Medicine was in an especially good position to offer "fast, fast, fast relief." After all, it is the internist's particular business to know drugs and their effect and use, and knowing as we do the worthlessness of amphetamines for long-term weight control, we felt that it was not enough that we refrain (as most of us have for years) from prescribing them; we must, at the same time use whatever influence we have to educate the public. Accordingly, last Wednesday night (11/17/70), the Society unanimously passed the enclosed resolution, for all the reasons stated in it, and in the hope that other medical groups will be motivated to follow this example. If enough physicians join us in the boycott, there will be little legitimate incentive for the drug companies to continue the manufacture of amphetamines, and we very much hope that the role of "speed" in driving young people to heroin as a "downer" will be ended.

Thank you very much for your letter of Nov. 16, and congratulations on your victory on election day. If you would like reprints of any of the articles annotated in the resolution, please let me know. The resolution is to be published in the major Utah commercial daily newspapers on 11/29/70 in the public notice section.

Very sincerely yours,
ROBERT K. MADDOCK, JR., M.D.,
Chairman, Legislative Committee,
Chairman, Public Relations.

UTAH SOCIETY OF INTERNAL MEDICINE

(Resolution on amphetamines unanimously passed on Nov. 17, 1970)

Since: There have been 122 drugstore and physician office burglaries in Salt Lake City alone so far this year and the major target is methamphetamines, (1)

Since: The use of amphetamines by drug abusers appears to be related to the more serious problem of heroin addiction, (2, 3)

Since: Drug abuse and crime are closely related and the amphetamines are major contributors to the crime epidemic,

Since: The use of amphetamines and similar drugs has been demonstrated to have no lasting benefit in the treatment of obesity, (4)

Therefore be it resolved that the undersigned will under no circumstances prescribe amphetamines or any similar drugs in the treatment of obesity, and we notify the public and all pharmacies and law enforcement agencies that prescriptions bearing our names for these drugs should be considered forgeries.

W. S. Abbott; S. J. Altman; A. H. Barker; C. D. Beherns; W. H. Bennion; R. P. Bigelow; W. F. Bird Jr.; F. M. Calton; G. E. Cartwright; W. P. Daines; L. K. Dayton, G. Edison; I. Ershler; C. Evans; C. S. Feeny; J. W. Freston; Q. S. Harris; P. D. Hart; L. J. Hyland; V. Kassel; E. M. Kilpatrick; G. C. Krebs; S. A. Lawson; A. E. Lindsay; A. P. MacFarlane; R. E. McDonald; R. K. Maddock, Jr.; J. R. Miller; D. M. Moore; A. H. Namba; A. R. Nelson; D. H. Nelson; J. D. Newton; F. C. Null; D. D. Olsen; W. E. Peltzer; D. M. Petersen; S. K. Peterson, A. D. Renzetti; J. H. Rupper; D. C. Schmidt; P. M. Southwick; R. L. Tihgey; W. C. Vincent; B. C. Williams; E. A. Wight; M. Wintrobe; W. S. Zundel.

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POTENTIAL ROLE OF COMMUNICABLE DISEASE CONTROL ACT

Mr. YARBOROUGH. Mr. President, the Communicable Disease Control Act, Public Law 91-464, which I introduced in the first session of Congress as S. 2264, is most often thought of in the context of the threatened rubella epidemic in this country. However, I think it is important to realize that there is a multiplicity of communicable diseases that this act may be called upon to handle.

One such potential occasion was the epidemiology of murine typhus in Texas. Recently an article appeared in the Journal of the American Medical Association for December 14, 1970, by Dr. J. Justin Older, entitled "The Epidemiology of Murine Typhus in Texas, 1969." I ask unanimous consent that this information and illuminative article be printed at this point in the RECORD to illustrate the potential problems which our Communicable Disease Service may be called upon to handle.

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

THE EPIDEMIOLOGY OF MURINE TYPHUS IN TEXAS, 1969

(By J. Justin Older, M.D.)

(During 1969, 28 cases of murine typhus were reported in Texas. This number was consistent with the number of cases reported in previous years. The majority occurred in south Texas in the spring of the year. Patients presented with an illness resembling influenza, but the correct diagnosis was established by the complement-fixation test. Epidemiologic investigations implicated fleas from cats as vectors in the transmission of this illness to several patients.)

During the 1920s it was shown that endemic typhus was milder than the epidemic variety.[1] In 1931, the oriental rat flea, *Xenopsylla cheopis,* was found to be the vector of this disease, and the domestic rat, *Mus rattus* (In south Texas, the domestic rat is currently known as *Rattus rattus*), was shown to be the host, hence the designation murine (mouse or rat) typhus.[2,3] The number of cases of typhus reported increased steadily during the 1930s and 1940s, until 1944, when 5,401 cases were reported for the entire United States.[4] In 1945, control of rat fleas with DDT was begun. The incidence of murine typhus in the United States showed a steady decline until 1961, when 46 cases were reported to the National Communicable Disease Center.[5] Since 1961, the number of reported cases has varied from 28 to 52 per year. For this reason, the illness is considered rare in this country; however, Texas continues to report 20 to 40 cases per year.

In 1968, the Texas State Health Department reported that 23 cases of murine typhus had occurred in the state. This figure, consistent with reports from previous years, represented 81% of all reported cases in the United States for that year. It was therefore decided that an epidemiological study should be undertaken during 1969. This paper describes the results of that study in which investigations of 28 cases were performed.

Evidence suggesting possible modes of transmission was available for 12 of the 28 cases. In some instances, the generally accepted method of spread of *Rickettsia mooseri* from rat to rat flea to man did not seem to occur. These case histories are presented to suggest the role of the domestic cat in the transmission of murine typhus to man.

MATERIALS AND METHODS

Cases of murine typhus were discovered in one of two ways. Either a health officer notified the State Health Department of a suspect or a sample of the patient's serum sent to the State Health Department Laboratory by a private physician was found to react against the rickettsial antigen in the complement-fixation (CF) test.

Investigation included a discussion with the attending physician, a review of the hospital record if indicated, and an interview with the patient or his family or both. The homes or other places where the illnesses may have been contracted were inspected for evidence of rats, opossums, or other animals that might carry the illness. In cases in which cats or kittens were suspect, these pets were examined for fleas and generalized illness. When possible, samples of cat blood were obtained by venipuncture and sent to the state laboratory for serological testing. One flea was obtained, frozen, and sent to the state laboratory on dry ice.

Cases were confirmed by use of the CF test, with commercially prepared rickettsial antigens,[6] and the Weil-Felix test with *Proteus* OX-19 antigen. In the latter technique, killed whole cell suspensions of organisms prepared by the Biologics Division of the State Health Department were used as antigens. These were incubated with serums for

Footnotes at end of article.

four hours at 56 C and then refrigerated for 18 to 20 hours at 8 C. Clotted blood samples, obtained by venipuncture of the persons suspected of having typhus, were forwarded to the state laboratory in unrefrigerated cartons via the routine mail system.

EPIDEMIOLOGY

In 1969, a total of 28 cases of murine typhus occurred in Texas. Twenty-three were reported from Hidalgo, Nueces, and Cameron counties, areas in south Texas known to be endemic for the illness (Fig. 1). Sixty-two percent of the cases occurred in April, May, or June, and the other 38% were spread among all other months except July (Fig. 2). Age distribution of the subjects varied between 6 and 74 years with adult women being predominantly affected (Fig. 3). All of the patients were white.

Although the majority of cases occurred in three counties, only a few cases could be related in any way. In Cameron County, two middle-aged women (cases 1 and 2) admitted to having been bitten by grass fleas a week before their illness began but denied any contact with rats. They lived 20 miles apart. Grass fleas in this area are often *Ctenocephalides felis,* the cat flea. A man and his wife (cases 3 and 4) were bitten by fleas in their garage in Nueces County. Opossums were often seen in the garage, so traps were set, but no animals were caught. In another part of the city, opossums were trapped and found to have *C felis* on their bodies. The fleas were not examined for the presence of rickettsia nor was the opossum blood tested for antibodies to *R mooseri.*

Two case histories suggested contact with rats. A family living on a farm in Hidalgo County put rat poison around the house, and their 7-year-old son (case 5) contracted typhus about two weeks later. Fleas leaving a dead rat look for the closest host, which is often a human. A teenage boy (case 6) in Webb County said he had chased a rat along the river bank two weeks before his illness began, but he did not remember being bitten by insects.

Most of the patients denied a history of insect bites or proximity to rats. Since rats are abundant in south Texas, one might presume that people of the lower class might have some contact with rodents, but the patients in this study came from upper-class homes, as well as lower- and middle-class families. Therefore, another mode of transmission may have been operable in some cases.

Six of the patients (cases 7 through 12) who came from upper- and middle-class homes gave information that suggested that domestic cats had played a role in the transmission of their illness.

An 18-year-old girl (case 7) and her 13-year-old sister (case 8), who were living in Cameron County, became ill with fever, chills, myalgia, nausea, and dry cough on April 22. Two weeks before, these girls had received an apparently healthy kitten from a friend who lived several blocks away (Fig. 4). While the girls were taking fleas off the kitten, they got several flea bites on their arms and hands. The mother cat, which stays outdoors at the friend's house, was said to be flea-ridden and mangy looking. Field rats had been known to frequent this area, but none had been seen since several months before the birth of the kitten. According to the family who owns the mother cat, grass fleas had been very abundant for several weeks before the kitten was born. About five months after the birth of the kitten, a flea recovered from the mother cat was identified as *C felis,* but was insufficient for injection into a guinea pig for diagnosis of the presence of rickettsia. At the time of the investigation, there were no fleas on the kitten. Blood from the mother cat was negative in the CF test for typhus. No blood sample was taken from the kitten.

A 47-year-old housewife (case 9) living in an upper-middle-class part of Hidalgo County became ill with murine typhus on May 15. In late April, one of her pet cats caught a rat in the field surrounding her house and brought it into the backyard (Fig. 5). In early May, her cats seemed to have more fleas than usual, and she put flea collars on them. Fleas from the cats remained in the house, however, and bit the patient on the legs numerous times. No other members of the household were bitten or developed any illness.

A kitten that belonged to the cat that caught the field rat and that never wore a flea collar was given by the housewife (case 9) to a family who lives several miles away in a middle-class suburban neighborhood in the same county. This kitten allegedly had no fleas and seemed healthy. All three children in the family; an 8-year-old boy (case 10), a 6-year-old girl (case 11), and a 9-year-old girl (case 12), became ill with murine typhus several weeks after the kitten arrived. No fleas were recovered from either the mother cat or the kitten; however, the mother cat's blood had a 1:8 titer in the CF test for typhus. The kitten's blood was negative.

LABORATORY RESULTS

All cases demonstrated a positive reaction in the CF test for murine typhus (Table 1). Three patients showed a three-fold rise in titer in acute and convalescent-stage serum samples. Of the patients for whom only convalescent-stage serum samples were available, 68% had CF titers ranging from 1:64 to 1:4080. Five patients with titers of 1:32 had *Proteus* OX–19 titers of 1:320 or greater.

Serum samples from 21 patients were tested for rickettsialpox, Rocky Mountain spotted fever, and Q fever. Only one of them reacted with both rickettsialpox and Rocky Mountain spotted fever antigens, but with lower titers than with murine typhus antigens.

TABLE I.—RESULTS OF SEROLOGICAL TESTS

Number of cases	Murine typhus CF titers	Proteus OX-19 titers
	Convalescent-stage serum only	
1	1:8	1:640
5	1:36	1:320 to 1:1280
12	1:64	<1:40 to 1:5120
3	1:128	<1:40 to 1:640
2	1:256	1:640 to 1:1280
1	1:512	1:640
1	1:4080	1:640
	Paired acute [1] and convalescent-stage serum	
1	1:8 to 1:64	1:640 to 1:640
1	<1:8 to 1:32	1:640 to 1:640
1	<1:8 to 1:32	<1:40 to 1:80

[1] These serum samples were obtained 9 to 15 days after onset of illness.

CLINICAL ASPECTS

Fever, chills, headache, and myalgia were the predominant symptoms, with rash occurring in about one fourth of the cases. Temperatures generally rose above 102 F (38.9 C), headaches were severe, but the rashes often seemed mild and localized to the trunk (Table 2). The patients presented themselves to physicians after several days of discomfort. Influenza was the initial diagnosis in at least 22 instances. Since the diseases continued in spite of supportive or antibiotic treatment, fevers of unknown origin were looked for with the Weil-Felix test. Once a positive reaction became evident, typhus was considered, and oral administration of tetracycline hydrochloride or oxytetracyline hydrochloride was prescribed with beneficial results in 21 cases. Erythromycin stearate given orally proved efficacious for one patient, one improved with a course of sulfamethoxazole, one with ampicillin trihydrate, and three with orally administered chloramphenicol. One recovered without antibiotics.

COMMENT

The number of typhus cases reported for 1969 is consistent with the number reported for previous years. As can be seen in Figs 6 and 7, the epidemic curves for 1966 through 1968 are similar to the 1969 curve shown in Fig 2. This would suggest that the epidemiology of the disease in 1969 could be representative of conditions which prevailed in the preceding years. The occurrence of human disease in the spring may reflect seasonal variations in the flea population with increased human contact. Four of the five cases from Cameron County occurred within two weeks of one another and seemed to follow an increase in the population of fleas in the grass. Two patients admitted to having been bitten by grass fleas, and two sisters were bitten by fleas on a pet kitten that had spent much of its early life out of doors. Although the evidence is tenuous, it suggests that *C felis* may play a role in the transmission of this disease.

Rats run wild in the fields and probably carry the causative organism. These rodents were shown to be infected at the time extensive surveys were conducted in 1948,[7] and there is no reason to believe that murine typhus has been eliminated from their populations.

TABLE 6.—*Clinical signs and symptoms of 28 patients with murine typhus, 1969*

Sign or Symptom:	*Number of Patients*
Fever	26
Headache	18
Chills	15
Myalgia	12
Rash	7
Malaise	7
Nausea	4
Cough	4
Weakness	5
Vomiting	3
Anorexia	2
Dizziness	3
Sore throat	1

Although the mode of transmission of murine typhus has historically been from rat flea, *X cheopis,* to man, investigations in south Texas indicate that cat fleas may be involved. Insects found on a kitten bit two girls (cases 7 and 8) shortly before they contracted typhus. *C felis,* which was found on the mother cat, is common in grass in south Texas and may well have been the source of infection in these patients as well as the other two from Cameron County. Case 9 became ill after being bitten by fleas which left her cats; and cases 10, 11, and 12 had the onset of typhus shortly after receiving a pet kitten from case 9. In fact, the blood of the kitten's mother had a low titer against the murine typhus antigen, suggesting it may have been infected. Since the families of cases 7 through 12 denied association with rodents, no attempts were made to recover any for diagnostic purposes.

It can be assumed that the 7-year-old boy who became ill with typhus shortly after his parents distributed rat poison around the farm house was bitten by a flea which deserted his rodent host. This history and that of case 5 were the only ones suggesting transmission from rat flea to man.

The presumption that *R mooseri* was transmitted to humans from fleas on cats, is based on epidemiological evidence, but *C felis* has been shown to harbor this organism in nature and has been implicated in its transmission to humans in Texas. *C felis* has also been found to occur on rats in South Texas, although *X cheopis* has been more common on these rodents.[7]

Footnotes at end of article.

There is no reason to believe that the reservoir of *R mooseri* is not the rat and, therefore, it is assumed that the cat fleas receive the rickettsiae from their source.

The CF test was used as the primary laboratory method in diagnosing cases of murine typhus. The State Health Department was usually notified of suspected cases several weeks after onset of symptoms and only convalescent-stage serum samples could, therefore, be obtained. In the three cases in which paired acute and convalescent-stage serum samples were available, the diagnosis was confirmed by a threefold rise in titer in each instance. When only convalescent-stage serum samples were available, diagnosis depended on a demonstration of a titer of 1:64 or greater in the CF test, or a combination of a lower CF titer and other laboratory or epidemiological evidence. Two patients had titers of 1:8 and 1:32 as well as Proteus OX19 titers of 1:640. (In these two cases, 1:640 was the maximum dilution in which the serum samples were tested.) Four other patients with CF titers of 1:32 showed no cross reactions with other rickettsial antigens and had siblings who demonstrated diagnostic CF titers.

A value of 1:64 in the CF test was chosen as diagnostic since there are rarely cross reactions at that level in the State Health Department laboratories. In addition, Plotz found that 63% of convalescent-stage serum samples from 43 patients with murine typhus reacted in titers of 1:48 or below in the CF test with murine typhus antigens. All showed a titer of at least 1:12.[9]

The clinical picture presented by these patients is similar to the signs and symptoms recorded in a study in New Orleans in 1945; [10] however, there is a difference in the reported frequency of rash. Of the patients in south Texas, 25% had a visible rash, compared with 63.88% of those in Louisiana. The discrepancy may be related to the fact that in Texas, examination for rash was often not performed until late in the course of the illness.

Since influenza, rather than typhus, was often the primary diagnosis, appropriate antibiotic therapy was delayed. On the other hand, tetracycline therapy is used to treat the complications of influenza and may have been administered to misdiagnosed cases of murine typhus with beneficial results. Although hypothetical, this would suggest that murine typhus is underreported.

The age and sex distribution are probably related to the fact that adult women and children spend more time at home where most of the illnesses were contacted.

The socioeconomic status of the patient has been stressed, to emphasize the fact that this illness is not limited to people living in rat-infested homes and, in fact, may occur more frequently in those sufficiently educated to remove fleas from their house pets.

CONCLUSION

Twenty-eight confirmed cases of murine typhus occurred in south Texas in 1969. Since this number is similar to the reported cases for the three previous years, this illness must be considered as a continuing problem in south Texas. It should be a part of the differential diagnosis when a patient presents with symptoms of influenza.

In contrast to currently accepted opinion, the rat flea may not be the only vector which transmits the disease to people. Although much of the evidence presented is circumstantial, it would appear that the domestic cat is involved in the epidemiology of murine typhus and that *C felis* may play a significant role in the spread of this disease to man in south Texas.

(The professional staffs of the Cameron, Hidalgo, Webb, and Nueces County health departments assisted in gathering epidemiological information. Kinch Knolle and Shelley Brewer performed the serological tests.)

NONPROPRIETARY AND TRADE NAMES OF DRUG

Ampicillin trihydrate—*Alpen, Amcill, Amplin, polycillin, Principen, Supen, Totacillin.*

FOOTNOTES

[1] Maxcy KF: An epidemiological study of endemic typhus (Brill's disease) in the southeastern United States. *Public Health Rep 46*:2967–2995, 1926.

[2] Dyer RE, Rumreich A, Badget LF: Typhus fever: A virus type derived from fleas collected from wild rats. *Public Health Rep 46*:334–338, 1931.

[3] Mooser H, Ruiz Castaneda M, Zinsser H: Rats as carriers of Mexican typhus fever. *JAMA 97*:231–232, 1931.

[4] Pratt HD: The changing picture of murine typhus in the United States. *Ann NY Acad Sci 70*:516–527, 1958.

[5] Summary 1967. *Morbidity Mortality Weekly Rep 16*: (suppl) 2–59, 1958.

[6] *Standardized Diagnostic Complement Fixation Method and Adaptation to Micro Test. Public Health Service,* National Communicable Disease Center, 1965.

[7] Randolph RM, Ogden LJ, Eads RB: Entomological studies in typhus in Lavaca County, Texas. *Tex Rep Biol Med 6*:444–452, 1948.

[8] Irons JV, Bohls SW, Thurman DC Jr, et al: Probable role of the cat flea, *Ctenocephalides felis,* in transmission of murine typhus. *Amer J. Trop Med 24*:359–362, 1944.

[9] Plotz H: Complement fixation in rickettsial diseases. *Science 97*:20–21, 1943.

[10] Stuart BM, Pullen RM: Endemic (murine) typhus fever: Clinical observations of 180 cases. *Ann Intern Med 23*:520–536, 1945.

THE PLIGHT OF OUR MIGRANT WORKERS

Mr. YOUNG of Ohio. Mr. President, there are more than a million migrant farmworkers laboring in fields across America, living in abject poverty and misery. The life expectancy of a migrant worker is less than two-thirds the life expectancy of other farmworkers. They suffer from infectious and parasitic diseases at a rate two to five times greater, tuberculosis 17 times greater, venereal disease 18 times greater, and worms 35 times greater than the average American. As a rule, migrant workers and their children receive no dental care whatever. The only exception is sometimes the employer of migrant workers suffering from toothaches permit hired dentists to extract the teeth no thought being given to filling the cavities.

In many communities children of migrant workers are not permitted to attend school. The most schooling any migrant worker's boy or girl is usually able to attain ends on or before the eighth grade. In fact, 17 percent of the migrant workers are illiterate. The children help their parents by working in the fields. The children of migrant workers for the very reason their parents work in the fields in various parts of the country are deprived of educational opportunities. School boards in many communities do not permit the children of migrant workers to attend the first grades in their schools. The parents, as a rule, need them to help in the migrant labor so that the family will have a bare living wage.

The fact is, Mr. President, migrant labor should be regulated on a national level else such labor should not be tolerated. The facts are that more than a million migrant farmworkers will harvest crops that will feed Americans for the coming year. It is evident these migrant workers by their hard work are needed to help harvest crops. Therefore there must be national legislation enforced to provide decent conditions for migrant workers and their families.

Mr. President, in my State of Ohio alone, there are approximately 33,000 migrant farmworkers. The State of Ohio has an agricultural industry which runs over $1 billion annually. Migrant workers are the source of much of the labor used to harvest Ohio's strawberry, sugar beet, celery, pickle, tomatoes, peaches, and grape crops. During the month of September, the peak season in Ohio, more than 16,500 migrant farmworkers usually toil in the farm fields of my State. Half of these workers are usually under 25 years of age. One-fourth of them were between 14 and 17. Migrant workers invariably have a short life span.

According to U.S. Department of Labor statistics, migrant workers receive an annual wage lower than of of any other income group in the country. In 1970, they worked an average of 78 days a year, and they averaged a meager annual salary of $891. This is approximately $30 less than the average migrant salary for 1967 and 1968. Their pitiful income is in shabby contrast to the earnings of American factory workers. The basic necessities of food and clothing consume all of their meager paychecks and more.

Because of their youth or lack of education, most migrant workers and their youngsters have no awareness or interest in the political process. They move from county to county, and from State to State. They have no representatives or senators in the State legislatures or in the U.S. Congress to whom they can turn for help. Theirs are the unheard voices of misery and despair.

Mr. President, the 91st Congress authorized $49 million assistance to migrant workers for fiscal year 1971 to be administered by the Office of Economic Opportunity. This sum, which will be used to aid more than a million desperately poor individuals, is less than 12 percent of what the administration wanted the Congress to authorize in fiscal year 1971 to subsidize a supersonic transport airplane to fly the jet set to Europe at a speed greater than the speed of sound. This, while migrant workers and their children are still living in squalor in many parts of our country.

ADVERTISING AND THE EXPANSION OF THE ECONOMIC SYSTEM

Mr. MOSS. Mr. President, deceptive advertising ranks as one of the most significant causes of increased public dissatisfaction with the marketplace.

During the 91st Congress the Subcommittee for Consumers has devoted substantial efforts to increase the ability of the consumer and the Federal regulatory agencies to cope with unfair and deceptive advertising practices. My study of this area has led me to appreciate the efforts of Phillip Elman, recently retired member of the Federal Trade Commis-

sion, to combat deception in the marketplace.

Although Commissioner Elman has retired from public service, he continues to wage war on deception in advertising. As a professor of law at Georgetown University Center he has launched a program known as "Operation Truth" to promote truth in advertising.

I congratulate Professor Elman for his continuing efforts to insure that advertising plays a positive role in the development and expansion of our economic system. His new project is described in the Tuesday, November 10 issue of the Georgetown Law Weekly, and I ask unanimous consent that the article be printed in the RECORD at this point.

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

OPERATION TRUTH

Philip Elman, the most recent addition to the GULC faculty, is currently formulating a new public interest law project at the Law Center. The project tentatively labeled "Operation Truth", is a truth-in-advertising campaign which will focus primarily on national network television commercials.

As former Commissioner of the Federal Trade Commission, which regulates unfair advertising practices, Prof. Elman brings an expertise to his project. He feels that because of a manpower shortage the FTC does not and cannot perform as effectively as it should in controlling television advertising, and that the project, if successful, will help alleviate this problem.

Elman and his assistant coordinator of the project, Doris Friedman, foresee the "campaign" taking shape initially as a television-monitoring project. Participating students will be asked to watch television commercials and follow up any suspicious or potentially unfair advertising with a written inquiry to the advertiser of the product. Questions might arise, for example, regarding the basic truth of the advertisement or the proof of any claims the manufacturer makes concerning the product. Professor Elman stated that a letter in itself could be enough to effect changes in the advertiser's practice, especially as "Operation Truth" becomes more widely recognized. If the advertiser fails to respond to the inquiry or gives an evasive response. Several different avenues of response are open. Administrative proceedings could be instituted against the advertiser by the FTC, a class action law suit could be brought against the manufacturer, or a suit could be brought against the FTC itself if it fails to act on a claim brought to its attention.

The law in the area of unfair advertising practices is not complicated and does not require a great deal of expertise in its application. Thus, Professor Elman is encouraging all interested students to participate and pointed out, especially that first-year students can also be valuable contributors. Essentially, the law states that an advertisement must be one hundred per cent true. If the product is at all dangerous, the consumer must be explicitly warned of this fact. Generally, the manufacturer may not withhold any information about his product. In Professor Elman's words, "a half-truth under the law is a whole lie."

"Operation Truth" will not employ the tactic of confrontation, but will seek to bring matters to the government's attention by "handling it to them on a silver platter" and to initiate action on the ground floor level.

Prof. Elman has prepared a brief summary of the regulatory law as a guideline for interested students. There will be an organizational meeting on Wednesday, November 18 at 11:30 A.M. in Hall IV. All interested students are encouraged to attend.

Mr. MOSS. Mr. President, I also ask unanimous consent that the brief summary of law relating to unfair and deceptive advertising prepared by Professor Elman be printed in the RECORD at this point.

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

LAW OF UNFAIR AND DECEPTIVE ADVERTISING—BRIEF SUMMARY

1. An advertisement is unlawful under the F.T.C. Act if it is "unfair" or "deceptive", either to competitors or consumers. The basic test of legality is simple and pragmatic, not technical or legalistic. In each case the controlling question is: Did the advertiser deal fairly and honestly with the public? The old rule of *caveat emptor* (let the buyer beware) is dead. Today, in a society where goods are mass-produced and presold to the public by highly sophisticated mass-advertising techniques of persuasion (summarized in the words "Madison Avenue"), the rule is that sellers should not advertise their products in such a way as to interfere with the right of consumers to make a free and informed choice among the numerous products and brands offered for sale in the marketplace.

2. It is not enough for a seller to avoid outright misrepresentations. Any ad which leaves a false or misleading impression in any material respect, either because of what it says or doesn't say, is illegal. A literal truth can be a deceptive half-truth; and a half-truth is a whole lie. To tell less than the whole truth about one's product, or a competitor's, is a familiar method of deception. A skillful advertiser, making shrewd use of exaggeration, innuendo, ambiguity, or half-truth, can mislead the consuming public without misstating a single fact.

3. Generally speaking, an advertisement is tested by the impression which it is likely to make upon the "general populace", the "ordinary purchaser", or "the average person". However, many decisions stress that the law's concern extends to the trusting as well as the suspicious, the casual as well as the vigilant, the naive as well as the sophisticated. In regard to advertisements (particularly 30- or 60-second television commercials), it is a fact that many people "run as they read." Thus, even though an ad may be literally truthful when carefully parsed and analyzed it is unlawful if its likely effect is to mislead a substantial segment of those to whom it is directed. This rule is particularly applicable to advertising aimed at children.

4. "Puffing" is no defense. A seller may describe his product as "beautiful", "the greatest", etc., so long as it is understood to be only an expression of his opinion, not a representation of fact. "Puffing" does not permit sellers to misrepresent goods by assigning to them benefits or virtues they do not possess.

5. Increasingly, the law is imposing a duty on sellers to make affirmative disclosures in their advertising. In general, an ad is unlawful if it fails to reveal material facts to which the public is entitled as a matter of fair and honest dealing. An obvious example is the failure to give adequate warning of any dangers to health or safety involved in use of the product. Beyond that, an ad is misleading if it fails to reveal any facts about the product which are material in the light of the representations or claims made for it in the advertising.

6. An advertiser should not make any claims for his product unless and until he is able to back them up with substantiating proof. If it is the kind of claim (e.g., that an anti-freeze will stop radiator leaks), whose truth can only be determined by adequate and well-controlled scientific tests or studies, the advertiser must have fully-documented proof of the truth of his claim, based on such tests or studies, *before* he makes the representation in his advertising. Otherwise, he is showing a reckless disregard for the rights of the public. If the seller engages in such unfair advertising, his conduct is illegal without regard to whether or not the claim is false.

7. Special attention should be given to claims that a product is "new", "improved", or "better". The change from the old or former product must be substantial and significant; otherwise, the claim is misleading and unfair.

8. With respect to packaging and labeling, Congress declared in the Fair Packaging and Labeling Act of 1966 (15 U.S.C. 1451, § 2), that: "Informed consumers are essential to the fair and efficient functioning of a free-market economy. Packages and their labels should enable consumers to obtain accurate information as to the quantity of the contents *and should facilitate value comparisons.* Therefore, it is declared to be the policy of the Congress to assist consumers and manufacturers in reaching these goals in the marketing of consumer goods." (Emphasis added.) Congress has directed various government agencies (particularly the FTC and the Food and Drug Administration) to implement these broad statutory goals. The breadth and comprehensiveness of the policy expressed in the Act provide a solid basis for future regulatory actions and consumer activity in this area.

9. Dangling comparatives, such as "safer," "quicker," "better," etc., are misleading and unfair. "Safer" than what? The advertiser's former product, or his competitor's? The use of such ambiguities in advertising is frowned upon by the FTC, and a seller who uses them should be called to account.

10. The law of consumer protection, including the area of advertising, is not fixed and unchanging. As the community's evolving standards of honest and ethical business practices are raised, the legal standards governing such conduct are also raised. In the words of Judge Learned Hand, describing the FTC's power in the field of unfair and deceptive practices, "the Commission has a wide latitude in such matters; it's powers are not confined to such practices as would be unlawful before it acted; they are more than procedural; its duty, in part at any rate, is to discover and make explicit those unexpressed standards of fair dealing which the conscience of the community may progressively develop." (86 F. 2d 692, 696.)

TEXAS BENEFITS FROM VOCATIONAL REHABILITATION EXTENSION

Mr. YARBOROUGH. Mr. President, week before last, on December 17, 1970, the Senate passed and cleared for the President's signature a 1-year extension of the vocational rehabilitation program.

I would like to point out that during fiscal year 1970, Texas ranked third in the Nation in progress with vocational rehabilitation with 12,006 successfully rehabilitated individuals. Because of the importance of this bill to Texas, I ask unanimous consent that a brief description of the work of the Texas Rehabilitation Commission during fiscal year 1970 be printed at this point in the RECORD, along with the estimated allotments for Texas for fiscal 1969, 1970 and 1971.

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

TEXAS

During fiscal 1970, in an effort to conserve and restore the working usefulness of human beings, the Texas Rehabilitation Com-

mission delivered rehabilitation services to more than 45,000 disabled Texans, an increase of 7,544 over 1969. During 1970, the number of persons closed from the rolls of the Commission as successfully rehabilitated and employed reached 12,006, an increase of 1,753 or 17% over 1969. Texas ranked third in the nation in the number of clients rehabilitated.

Through effective working relationships with the Texas State Department of Mental Health and Mental Retardation, the Texas Department of Corrections, Texas Department of Health, and the Texas State Department of Public Welfare, the Commission closed as rehabilitated 3,517 individuals who were either institutionalized in State facilities or receiving benefits from the State Department of Public Welfare at the time of acceptance for services by the Commission. These individuals cost the State, and ultimately the taxpayer, $8,072,104 per year for their care or treatment in a State facility or in welfare benefits. The Commission spent a one-time total expenditure of $8,338,807, or an average of $2,371 per case, in order to return them to gainful employment.

General rehabilitation program

General Rehabilitation Programs were expanded. These include the Social Security Trust Fund Program, Disadvantaged Disabled, Model Cities, Concentrated Employment Program, Migrant Workers, Rehabilitation Centers, Medical Centers, Small Business Enterprises, Sheltered Workshops, and all disability categories not administered by Special Programs. In 1970 there was a substantial increase in the number of hearing-impaired clients, with 618 being rehabilitated. A total of 2,590 clients were served and 942 are still receiving services. The Hearing Impaired Project at Lee College in Baytown, funded by an innovation grant, has just completed its first year of operation and is demonstrating a real need by providing vocational and technical training utilizing interpreters in the classrooms and shop.

Rehabilitation Programs to meet the needs of the Migrant Workers are now being given high priority. The Commission has initiated a Migrant Rehabilitation Project, funded by an expansion grant, in the Rio Grande Valley. As the project proves its effectiveness in providing services to Migrant Workers, additional funds will be requested to expand services and develop additional programs. New techniques and methodologies necessary to deliver prompt services to clients have been incorporated in target area offices in the Houston and San Antonio Concentrated Employment Programs. These projects are resulting in increased numbers of referrals and in improved services. These Concentrated Employment Programs utilize the services of multiple agencies housed in common facilities. This arrangement facilitates coordination and quality of services received by clients.

Special rehabilitation programs

Special Rehabilitation Programs were also expanded. These include programs for the Mentally Ill, Mentally Retarded, Public Offender (both juvenile and adult) the Alcoholic and Drug Abuser, Tuberculosis and Emphysema clients and Welfare recipients. The Cooperative School Program for the Mentally Retarded is a joint program between the Texas Education Agency, Division of Special Education, various Independent School Districts, and the Texas Rehabilitation Commission. Eight thousand student-clients receive rehabilitation services each year. The Commission also operates joint programs with State Schools for the Retarded and with State Centers for Human Development. Several other joint programs are operated with community Mental Health and Mental Retardation Centers. Last fiscal year 2,300 clients received services from the Texas Rehabilitation Commission in these facilities.

During the past fiscal year, eighty Vocational Rehabilitation Counselors closed 1,800 Mentally Retarded clients as rehabilitated. In the State Mental Hospitals and Mental Health Centers across the State, 17,000 Vocational Rehabilitation Clients received services last fiscal year. Of this number, 1,400 cases were closed as rehabilitated, and the remainder continue to receive services. Written agreements with the Texas Commission on Alcoholism, Department of Mental Health and Mental Retardation, and the Texas Department of Corrections has resulted in the establishment of a very active rehabilitation program for Alcoholic clients in State-operated treatment facilities and local Vocational Rehabilitation offices. The Texas Rehabilitation Commission has established rehabilitation programs for the drug abuser in State and Federal treatment facilities in Fort Worth, Houston and San Antonio. Future plans call for additional rehabilitation staff to be placed in various drug treatment facilities as they are developed throughout the State. Last year over 410 Drug Abusers were served by Vocational Rehabilitation and 101 of these cases were closed as rehabilitated.

The Commission is serving the Adult Public Offender through cooperative programs established with the Texas Department of Corrections, the Board of Pardon and Paroles and the Bureau of Prisons. Over 8,000 Vocational Rehabilitation clients received services in this program during the last fiscal year. Over 1,300 of these were closed as rehabilitated. The remainder are active cases in the rehabilitation process. A working agreement has been established between the Commission and the Texas Youth Council to better enhance rehabilitation services for the Juvenile Public Offender. The Commission has written agreements with juvenile courts in Dallas, Fort Worth, Houston, San Antonio, Beaumont, and Corpus Christi to provide Vocational Rehabilitation services to juvenile clients before their behavior necessitates their being institutionalized. Over 2,000 clients were served in this program last year; 305 were closed as rehabilitated and the remainder continue to receive Vocational Rehabilitation services.

A cooperative agreement between the Commission and the Department of Health allows for clients with tuberculosis and emphysema to be served in various Department of Health facilities throughout the State. Clients with severe emphysema receive rehabilitation services in a special project at the East Texas Tuberculosis Hospital. The Department of Health and the Texas Rehabilitation Commission jointly fund and operate this project.

The disability determination program

The effect of the Social Security Disability Program in Texas is demonstrated by the fact that at the end of December 1969, there were 124,615 disabled workers and their dependents in the State receiving a total of $9,052,218 a month in benefits from the Social Security Administration. In the fiscal year ending June 30, 1970, the Division completed action on over 47,000 disability cases. During the year several important innovations were made to improve the services. Increased responsibility has been given to the Division to conduct an ongoing quality case appraisal program. An independent quality appraisal unit was established for this function. More specific criteria were introduced for identifying claimants that have rehabilitation potential which resulted in over 6,000 individuals being referred to the Vocational Rehabilitation Division for rehabilitation services. The Division continued to be below the national average in time spent completing action on cases and kept the cost per case about 10% under the national average.

Blind

During fiscal year 1970, the Texas State Commission for the Blind rehabilitated 2,137 clients. This represented an increase of thirty-three percent over the previous fiscal year and the agency again ranked first in the nation in terms of visually disabled clients rehabilitated.

Particular attention was given to effecting further improvements in the scope and quality of the agency's vocational placement services. The agency developed a special three-week program providing intensive instruction in theories, practices and techniques of placing the blind. Thirty-six counselors participated in the class and field work involved in this program.

As a result of a Federal expansion grant, the Commission is closely relating a number of activities to those conducted under the Model Cities Program in Texas. New activities are being conducted by the Commission in connection with Model Cities projects in Texarkana, Laredo, Houston and San Antonio.

The agency's small business enterprises program achieved new records during the year. A total of fifteen new vending stands were installed, representing a net increase of twelve locations for the year. Gross sales of the program amounted to $3,588,924, representing an increase of fourteen percent over the previous fiscal year. Average monthly earnings of blind persons participating in the program amounted to $484, a slight increase over the previous year.

A major highlight during the year was the completion of plans for a comprehensive rehabilitation center for the blind. The contract for the construction of the center was awarded during the year and Phase 1 of the construction is now in progress. The center is expected to be open on a limited basis on or about October 1, 1971.

TEXAS

	Years		
	Actual 1969	Estimated 1970 [1]	Estimated 1971 [2]
I—BASIC SUPPORT PROGRAM, SEC. 2			
A—Funding:			
Federal allotment	$33,604,356	$33,315,009	$34,656,068
Federal grant	17,595,426	26,007,930	34,656,068
State funds required	5,865,142	6,501,982	8,664,017
Total program	23,460,568	32,509,912	43,320,085
Matching ratio (Federal) percent	75	80	80
B—Accomplishments: [3]			
Individuals served	41,936	50,656	107,644
Individuals rehabilitated	11,861	14,143	18,385
II—INNOVATION PROGRAM, SEC. 3			
Federal allotment	$157,207	$157,125	$158,519
Federal grant	$157,207	$75,900	$158,519
Number of projects, new and continuation	1	1	1

TEXAS—Continued

	Years		
	Actual 1969	Estimated 1970 [1]	Estimated 1971
III—BENEFICIARY INSURANCE PROGRAM, TRUST FUNDS (SSA)			
A—Funding (100 percent Federal): Federal grant	$875,000	$1,061,531	
B—Accomplishments:			
Individuals served		1,126	
Individuals rehabilitated		519	
IV—EXPANSION PROGRAM, SEC. 4(a)2(A)			
Federal grant	$449,000	$660,000	
Number of projects (new and continuation)	5		
V—AVERAGE COST TO REHABILITATE AN INDIVIDUAL			
National	$1,888	$2,089	$2,205
State	$1,978	$2,971	$2,356

[1] Based on $500,000,000 allotment.
[2] Based on $515,000,000 allotment.
[3] Includes total number reported for VR programs.

WELFARE REFORM

Mr. KENNEDY. Mr. President, $1,600 a year to support a family of four is pitilessly inadequate when compared with actual living costs. A low-cost living standard for a family of four requires $6,567 according to the Bureau of Labor Statistics. The Department of Health, Education, and Welfare has set the national poverty level at $3,820. Subsistence is impossible on anything less.

Yet, there are 22 million people in this country, declared to be officially below the poverty line.

And, so it is, that national attention is drawn at this time to the system we use to respond to the deserving demands of needy Americans.

Historically, America has recognized the need to assist the needy, to care for the disabled and to protect our children. But modern America depends upon an outdated welfare system that has diabolically nurtured a psychology of dependence for thousands of poor families. That system has guaranteed that there will always be poor people.

Thus, widespread dissatisfaction with our present welfare programs has erupted in confusion, disenchantment, and antiwelfare sentiment. On one aspect of the welfare issue there is national consensus—it is that changes are needed. Changes are needed because the present system alienates the taxpayers who support, the social workers who administer it, and the poor who depend on it.

THE DIMENSIONS OF WELFARE

There are now about 11 million people on welfare in this country. Each year more than 1 million people are added to the rolls. In 1950, the direct cost of welfare was $2.3 billion a year. Today it is $11 billion.

Ironically, these increases in costs and beneficiaries have occurred while the number of people the Government has tabulated as poor has declined. In 1959, 22 percent of the population, or 40 million people, were below the Social Security Administration's poverty line.

By 1968, the percentage was cut in half to 11 percent, and the number who fell below the poverty line was estimated at 22 million people. Somehow we have managed to develop a scheme that paradoxically reduces the national count of poor people while expanding the mechanism and the coverage of the system that nominally claims it can meet the needs of the poor.

In most States there are six different welfare programs. Of those programs, the Federal Government provides financial assistance in five of them. Of those five, four exist in every State:

First. Aid to families with dependent children—AFDC—with 7.1 million recipients.

Second. Old age assistance—OAA—2 million recipients 65 years of age and older.

Third. Aid to the blind—AB—80,000 recipients.

Fourth. Aid to the permanently and totally disabled—APTD—793,000 recipients.

The fifth federally supported program, present in many States, is medical assistance for the aged—MAA—or general medical assistance, popularly called medicaid. Medicaid provides free medical care for the medically indigent. It is the fastest growing program and now takes 40 percent of the Federal welfare funds.

A sixth program in many States, but without Federal support is general assistance. It is designed to take up the slack in needy cases that are not covered by the other categories.

Of these varied programs, the heart of the welfare problem and the favorite target of critics is AFDC. Since 1960 the number of AFDC recipients, most of whom are children, has more than doubled—to 7.1 million in November of 1969—and the cost has more than trebled to $4 billion a year. For too long welfare has taken the blame for all of our domestic ills. We conveniently blame welfare for problems with health care, education, housing, racism, alcoholism, drug addiction, illegitimate births, and unemployment. Many of us know that present attacks on welfare programs serve to salve the national conscience. It is a handy whipping boy for those who won't admit that the poor do not have it within their power to become unpoor. No one lives in poverty because he chooses a life of deprivation. We must lay to rest the grand myth that the poor are lazy, lack initiative and prefer welfare to work. This is a delusion that completely ignores the facts.

More than 7.3 million men and women in the labor force in 1966 were poor. There were 4.5 million heads of poor families under age 65. Of these, 3.3 million worked as much as they could and still remained in poverty. Of the remaining 1.2 million, more than three-fourths were ill, disabled, or women with young children. Of the remaining 230,000, about 170,000 did not work because they were in school or simply could not find jobs. Out of that there remains 103,000, or 3 percent.

It is all too obvious then that there are very few able-bodied men on the welfare rolls. Entirely too many who are employed work at wages which force them to seek supplementary public assistance.

The Secretary of HEW recently told the Common Cause that more than 7 million people work at less than the minimum wage. With one person working at the minimum wage of $1.60 per hour, a family of four has an annual income that falls below the poverty line. Last year the Secretary of Defense, Melvin Laird, estimated that 50,000 service families could qualify for public assistance under President Nixon's proposed welfare program. Thousands of servicemen have been forced to put their families on the Nation's welfare rolls because their pay from the military cannot cope with rising living costs. Public welfare agencies are supplementing allotment checks from Vietnam paying the rent of married draftees or buying groceries for families whose breadwinners serve overseas.

From these facts about welfare we see an antiquated system that is struggling to meet critical human needs in today's fast moving society. Welfare rolls are increasing, State budgets are dwindling, taxpayers are complaining and recipients needs are lying unmet. It costs money to live in America, but millions of Americans are unable to provide for themselves. Since this Nation has the ability to help those who need assistance, I feel we must do all that we can to insure a decent living for them.

THE DEMAND FOR REFORM

Beyond the statistics about welfare recipients and the troubles that plague welfare administrators, controversy, outrage and bitterness pervade most discussions of the system.

Overwhelming evidence demands that we must devise major changes before there is complete chaos.

We must change not just because the welfare system is an administrative failure. To the poor that is the wrong reason to seek reform. For those of us who do not depend on welfare for sustenance the system's failures are blamed on the incomprehensible tangles of a bureaucratic morass.

Through our ignorance, prejudice, or indifference, those of us who are not poor are comfortably isolated from the severe effects of poverty and the inadequacies of public assistance payments. But to the poor who depend upon the system for sustenance the failures affect survival. The system just does not begin to provide the cash needed to sustain life in modern America.

In Mississippi a family of four receives monthly payments from public assistance that average $46. In Washington, D.C., that same family would average $236 a month plus $46 in food stamp bonuses. Yet, the cost of living in Washington is among the highest in the Na-

tion. In reality there is not just one welfare program in this Nation, but rather, there are 50 different programs. Each State separately establishes different standards of eligibility, based on age, sex, job status, and family size. The poor, who have no power—political or economic—are treated as though they also have no rights.

If you are black in Alabama you can not get welfare unless you agree to have white sponsors for whom you must work as a maid. For the mother who bears more than her "quota" of illegitimate children, she and the children are denied food assistance benefits in some cities of our country. If you work only during the harvest season to pick sugarbeets or grapes or oranges, you will not meet the residence requirements for public assistance in other communities.

The welfare system is a perfect unhappy example of the dangers of the latest fad of local control. Local governments run welfare assistance programs even though each State program is financed in part by the Federal Government. In 1969, nearly 54 percent of the total welfare costs were paid by the Federal government, but each State operates and administers programs according to its own discretion. The sad repressive result is that those hometown officials who are least responsive to the needs of the poor can deny them benefits to which they are legally entitled.

Yet, there is more to the insistence on tight regulation than crass racism and brute piggishness, even though these reprehensible motives are much too widespread. With the recent rise in the welfare rolls, even responsible public officials have quietly and subtly lobbied for delays and exceptions in the rules that put money in poor people's pockets—simply because our States are forced to seek ways to keep the lid on costs.

In Massachusetts State officials make expenditures over $600 million a year for welfare programs and they see a continuing rise in costs. Another reason, though seldom publicly admitted, is that high productivity types want to make sure that low productivity types are not getting away with something. With this tenet, aspects of the puritan ethic are involved.

On the one hand American families have come to worship the virtues of personal initiative, hard work, free enterprise and individual success. Anyone who works hard enough and saves his money can realize the American dream, so the saying goes. However, for the 22 million who are poor that pronouncement is but a dream, and nothing more.

According to the President, "if we take the route of the permanent handout, the American character will itself be impoverished." In announcing his welfare reform proposal, the President stressed work as the escape route from poverty. But, when he vetoed the manpower bill last week, he must have forgotten his claim that the need is not for more welfare, but for more workfare.

So we see, in the name of bureaucratic efficiency, and because of very real budget restrictions, patterns of systematic evasion, manipulation, and ultimately complete disregard for the needs of the poor.

ESSENTIALS NEEDED FOR REFORM

Our Nation's public service institutions have grown out of the humane concerns that society recognizes should be the birthright of every citizen. Although most of us are fortunate enough to enjoy the adequacies of life, the poor are denied the most basic needs. Our national attack on the problems of the poor has been horribly fragmented. We have developed a myriad of proposals to meet the needs of low-income families including food programs, health, education, housing and job training programs. Unfortunately, that piecemeal approach has not been effective. Welfare and public assistance programs have emerged in reaction to the failure of these programs to adequately meet the demands of the needy. So, today there is almost a proliferation of proposals designed to reform the entire scope of the welfare system.

Senators HARRIS, RIBICOFF, and other members of the Finance Committee have offered thoughtful, well structured proposals for reform. From the advocates of welfare recipients, the National Welfare Rights Organization has come probably the most far reaching—and for them—the most realistic design for adequate income protection.

President Nixon last year introduced what has by now become the much debated, but long overdue, family assistance plan—FAP. While I am firmly convinced that the FAP does not contain the substance to bring an end to the problems of welfare—it rightfully deserves to be recognized for establishing a most fundamental precept that should have been in our public assistance programs all along. The one important thing that the FAP offers is the development of a public assistance program that provides needy families with an adequate income for the necessities of life.

There are those who argue with the concept of a federally insured income program for the indigent on its merits. I do not. I believe that each citizen in this Nation is entitled to the basic adequacies our society offers.

And further, I believe that our trillion-dollar national output is more than sufficient to justify our ability to properly provide these adequacies for every American.

Embodied in the FAP is the core of a significant social concept—establishing an income floor for all American families. What we need is a program that would properly reflect our national tradition of providing the fundamental needs for all citizens within our basic framework of free choice—a program that provides an adequate income for the necessities of life.

When he was Chairman of the President's Commission on Income Maintenance, Ben Heineman reported that an inadequate income is the main problem facing poor people. All of the documentaries, the anecdotes, and the complete litany about life in poverty are directly traceable to one critical item—the lack of money income. The lack of all basic necessities would be improved with the ability to adjust expenditures to meet other family needs. Poor families, just like the members of other families face a variety of obstacles in their day-to-day lives. They need to meet the demands for adequate health, nutrition, education, and housing—just like the rest of us. But living in poverty is stark and grim.

As Mr. Heineman testified before the Senate Select Committee on Nutrition, the oft-noted problem of worms will persist with children who wear no shoes. Until families have hot water easily accessible to them, and proper garbage and toilet facilities, their greater susceptibility to disease will not be lowered. If families continue to live in unheated, drafty shacks, and apartments, they will continue to be vulnerable to the vagaries of the weather.

The proposals offered by both Senators RIBICOFF and HARRIS include the basic concept of income maintenance as suggested by the family assistance plan. In addition, their proposals offer humane and just guarantees that would uphold personal dignity and self-respect.

I believe that a program of income assistance is the most efficient and most sensible way to fight the problems confronting the poor because:

First. Properly administered, such a program would eliminate the unnecessary and arbitrary differences that exist in the treatment of the poor from place to place. Individual State standards should be eliminated. To do this a nationwide federally administered program should be implemented that would standardize program features for recipients everywhere.

Second. It would simplify the system so that recipients, as well as administrators, would clearly understand its rights, rules, and provisions.

Third. Every able-bodied person who wants to work would be able to seek employment at a decent wage. There is no justification for rules that force the poor to take a job. No one wants to be poor. No one wants to struggle with a meager income that offers no hope of meeting basic needs. More than 25 percent of those who live in poverty are members of families with at least one full-time worker. More than 7 million people work for less than the minimum wage. All of these people live in poverty because they do not earn an adequate income.

I believe that every American should be guaranteed adequate money income through earnings. And where necessary those earnings should be supplemented to assure that families can obtain a decent living standard. An effective program must provide income along with opportunities for work.

Fourth. An income maintenance system by definition should maintain an adequate standard of living. Extensive studies continually advise us of adequate income requirements for decent family living as they change from month to month. To pretend that something less than these announced standards of need will suffice for the poor is to perpetuate a fraud. I believe we must assume a commitment to assure as a national goal an adequate money income for every

family. To do that we only need the will. But, we must do it soon—we must raise the level to an adequate standard in a reasonable period of time.

Fifth. Finally, an income maintenance system offers the assurance that recipient rights will be protected and respected. No longer should it be necessary for investigators to intrude in the homes of fatherless children. At the same time rights of appeal can be systematically safeguarded and administered through equitable hearings. All recipients should be protected against job discrimination and the indignities of disrespect or callous treatment.

I know that the program considered by the Senate over the past months has not embraced all of these concepts. The family assistance plan, however, has introduced the basic idea of income supplements as a fitting way to meet the rightful demands of the needy. It is important to institute that basic concept.

Once that is done I expect to work for the development of those basic ideas that will guarantee the protections of income adequacy, employment opportunities, and the safeguards of personal dignity through a system of equity and justice.

EULOGY BY FATHER HESBURGH AT MEMORIAL SERVICES FOR CHARLES S. JONES

Mr. MURPHY. Mr. President, on December 12, I attended the funeral of one of California's and the Nation's great citizens, Charles S. Jones, former president of the Richfield Oil Co.

The eulogy was delivered by the Reverend Theodore M. Hesburgh, president of Notre Dame University, and was a highly fitting tribute to a wonderful man.

I believe that the Members of the Senate would like to share Father Hesburgh's words and I ask unanimous consent that the eulogy of Charles Jones be printed in the RECORD at this point.

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

EULOGY DELIVERED BY THE REVEREND THEODORE M. HESBURGH, C.S.C.

My dear friends, before beginning the service this morning, I would like to read for you a telegram which just arrived from the President of the United States. Those of you who know President Nixon can read between the lines of this telegram and see that it was really done by his hand.

"The productive life of Charles Jones combined the finest traditions of American business with the highest ideals of public service and civic achievement.

"His profound beliefs and ready ability to translate principles into action won him admiration and respect, not only in California but throughout the nation. His strength of character and soundness of judgment made him sought out by Presidents and leaders in every walk of life. He showed courage in his convictions, discretion in disagreements and selflessness in service to his country.

"I had the great privilege of having the benefit of his personal friendship and his wise counsel for all the years I have been in public life, win or lose. He was one of those rare individuals who made his friendship known more openly when I lost than when I won.

"His courage and indomitable spirit during his last difficult illness was an inspiration to me and all others who had the privilege of seeing him in those days.

"It is perhaps trite to put it this way but, however you measure a man, Charlie Jones has to be rated as one of the greatest."

Signed Richard Nixon.

My dear friends, I would like to begin this morning a very simple memorial service by reading the gospel of the requiem mass that I and a few friends offered for Charles earlier this morning.

This scene is Bethany outside of Jerusalem, down that long, hot road on the way to the Dead Sea in Jericho, and Jesus has just arrived in Bethany, having heard of the death of Lazarus, his good friend. Since Bethany was near Jerusalem, about fifteen furlongs away, many of the Jews had gone out there to comfort Martha and Mary over the loss of their brother. Martha, when she heard that Jesus had come, went out to meet him, while Mary sat in the house. Martha said to Jesus, "Lord, if you hadst been here my brother would not have died, and I know well that even now God will grant whatever you ask of him." "Thy brother," Jesus said to her, "will rise again." Martha said to him, "I know well enough that he will rise again at the resurrection when the last day comes." Jesus said to her, "I am the resurrection and the life, he who believes in me even though he is dead will live on, and whosoever has life and has faith in me, to all eternity, cannot die. Dost thou believe this?" "Yes, Lord," she told him, "I have learned to believe that thou art the Christ, thou art the Son of the Living God, it is for thy coming that the world has waited." And with that she went back and called her sister Mary aside. "The Master is here," she said, "and bids thee come."

We are all gathered here this morning to pay a final and well-deserved tribute to Charles Stone Jones. It might seem strange to you that this tribute is being delivered for a Texas Baptist by a Catholic Priest from Notre Dame. I have a simple explanation. Fifteen years ago, just at this time of year, I was first introduced to Charles Jones by another Texas Baptist and good mutual friend, Mr. C. R. Smith. And for the last decade and a half, we have spent the Christmas holidays together, their contention being that a Catholic Priest can only have a restful vacation if spent with Protestants and preferably Texas Baptists. The initial contact was not as simple as it seems from this account. Charlie loved to tell the tale, and I am sure he would love me to tell it to you today in his own words. Charles always said that C.R. in his usual abrupt way simply phoned him, Jones, and said he had invited another guest on the Christmas safari to Baja California. To Jone's query, man or woman, Smith simply said, "Catholic Priest." "My God," said Jones, and he wasn't praying, "have you forgotten about our fishing and hunting language." "Forget it," said Smith. Jones finally consented. "Well C.F.," he said, "if he can stand you, I guess he can stand me." As it turned out, I didn't just stand him, like so many of his thousands of friends I grew to love him dearly, at times despite himself. He could be like a large bear with a sore paw, but he was over the long pull the best of friends and a very lovable bear at that, with a heart as large as a lion's and every bit as courageous. I recall so well being at his bedside at a New York hospital a few years ago when the doctor showed him the latest x-rays of his leg and told him that his left leg would have to come off above the knee as soon as possible. Charles just winked at me and said, "As we say at Notre Dame, doctor, let's get the show on the road." And the doctor said, "Alright, sometime tomorrow." I remember rather sadly getting up to St. Patrick's Cathedral the next morning in New York and offering mass for Charlie that his courage would keep up. I learned later in the day with great joy that the doctor had decided to try one last new technique, which happily worked very well.

Like so many pioneers of every sort, the kinds of people who have characterized the history and growth of America, the mold was broken after the unusual events of Charles Jones's career had formed him and his life style and his character. If you put a casual title on his life today, it might be "It's a long way from Bonham, Texas," the fly-blown, dry and dusty, poor and threadbare Texas of his youth. In a book he wrote last year on the genesis of the oil industry that gave birth to his beloved Richfield, he said it was all due to a Mexican bandit named Zapata. Personally, I don't believe that little bit of romance. Richfield more than anything else, except perhaps the little creatures that turn to oil, was due to Charles Jones, to his vision, to his organizing ability, to his energy and to his unfailing dedication. Just as one illustration of his vision, he was sure that there was oil on the North Slope of Alaska, long after the Navy's survey team had given up on it, and long before oil was struck at Prudhoe Bay.

Charles Jones was a man who grew with the industry, as the industry grew with him. And Charles and I had one great endeavor in common; namely, education. He spent his whole life educating himself and educating everyone around him. He was seized by an enormous curiosity that never ceased to be nurtured by the wonder of God's creation. How many young men, trained in accounting, can tick off the Latin nomenclature for a wide variety of plants and animals, birds and fish. How many today teach themselves geology, astronomy, art, navigation, history, chemistry, international politics, botany, zoology, ecology, Spanish, and how to play the guitar. A few may do the latter, but very few the former.

I remember arguing with Charles one day in Mexico about the virulence of snake bites, specifically rattlesnake bites. In the middle of the discussion he abruptly disappeared into his room and emerged with a two-volume study on the subject that proved him to be very right and me to be very wrong. For my penance I had to read the two volumes, and found, to my surprise, that he had financed the study at Cal Tech because rattlesnakes were becoming a menace to many of his people who were working along the oil pipelines. Charlie's curiosity was insatiable, so his education continued until the day he died.

I wish I could tell you that Charles was a fervent, Church-going Christian. The best I can do on this point is to assure you that he helped to build a church for some Mexican rancheros who never had one and that for the past fifteen Christmas Eves he attended midnight mass there, with some pride and joy in the fact that it meant a lot to them and that somehow he was sharing their joy in prayer on this occasion. I can assure you, however that Charles Jones was a practicing Christian in the only way in which the good Lord tells us we are to be judged, when he said, "I was hungry and you gave me to eat, and I was thirsty and you gave me to drink, and I was naked and you clothed me, and whensoever you did this for my least brethren, you did it for me."

The charity of Charles Jones was unobtrusive, it was imaginative, and abundantly given from the goodness of his heart that had no desire for praise in doing good. He could fairly chew out his Mexican Majordomo in public on one day and then offer privately the next day to put the same man's son through school in the States. Charles was very touchy about anything phony in the area of religion. But very demanding of himself in being good and generous to others. He was infinitely faithful to his family and friends, sticky at times but still faithful to the end. I was never sure he was joking when he would turn to me in the boat during a long lull in the fishing and say, "Isn't it about time you started to pray, Father?"

He always arranged when I was his guest so that I had time for, and privacy for

prayer, and I think he would have been very disappointed in me if I had neglected my daily prayers or my other Priestly obligations. On this point he was almost a Puritan. He had a good conscience for me. Then there were the terribly sincere moments when after bluing the air with blasphemy, he would turn to me and say quite simply, almost like a child, "Excuse me Father, I am sorry." He didn't have to and he knew that, but he did. I don't know how many hundreds or thousands of people across the world are better today becaus of his great kindness, generosity and spirit. I know I am, and I rather imagine that all of you are too, or you wouldn't be here today to honor his memory.

If it is still a long way from Texas of the last century to California today, a long road that he trod with dignity and honor and a style all his own, I should add that his faithful wife, Genny, trod it with him and shared his anguishes as well as his triumphs. They spent his last day on earth together, reminiscing on the length and breadth of that road across fifty-five years of marriage with all its joys and sorrows and the love that spanned the years too.

Everyone will have his or her special memory of Charles Stone Jones, depending upon where or when they happen to know him. I would like to share my best memory of him with you, and I am sure it's a memory shared by a few of his friends. There is a very special estuary named after St. Margaret by some unknown explorer who discovered its lonely beauty near the southern end of that long peninsula, Baja, California, along the Pacific side. On one of the estuary bays across from a fishing village called Metancitas, there is a sandy strip, high in the center but sloping into the estuary waters on the northern side. The only real landmark on the beach there is a clump of mangroves in which Charlie hacked out three or four shooting blinds, facing the decoy position in the water of the Bay beyond the mangrove shoreline. My remembrance of Charlie is to see him sitting there in the worst of the four blinds, having characteristically given the best ones to his friends. He sits there in the warm afternoon sunshine drinking in the peace of the place, with the outgoing tide gently rocking the decoys; seagulls and diving fish hawks piercing the silence with their shrill cries; slim, dark frigate birds wheeling endlessly in lazy, effortless circles high in the clear, azure sky above us. Mangrove leaves stiffened by the salt air clapping against each other in the light breeze. Then suddenly Charlie would murmur, almost whisper, "Mark," as black specks would appear in the distant sky to the north, as the large black and white feathered brant would begin their long and sure descent to the decoys. My best memory is of Charles sitting there among his friends at peace with himself and the world, so enjoying the scene that he often did not bother to take up his gun as the geese arrived above the decoys. At this precise moment, there is anticipation in the air, and peace, and hope. It may seem farfetched to you but, to me, much of this is akin to the mood of man and woman in the face of the Christian message of eternity and immortality towards which willy-nilly we are all heading, with whatever baggage of good or evil we carry along with us as we move through time to eternity. We must anticipate something for none of us wishes life to end suddenly, abruptly and forever, as it does for a brant.

Peace is part of every concept of eternity because our lives and time are so frantic, frenetic and unpeaceful. Hope leads us to look ahead with confidence in God's wonderful saving grace that, if we are doing our best to follow the law of love and generosity and friendship freely given, somehow this will perdure eternally, and we with it. If good does not perdure, life is a nightmare and this world a madhouse.

I would like to believe that there was much more good than evil in the life of Charles Stone Jones, and, if from a distance I have shared my daily masses with him during the final days of his life, I would hope that from eternity he still shares with me that good spirit of kindness and generosity that pervaded his life. At this point, I can sense Charlie leaning over my shoulder and saying, "Padre, haven't you said just about enough, if not too much." He's probably right and yet there is another word that I must say, this time not about him, but for him. He would certainly want me to thank you, his good friends, for your goodness in being here today as a tribute to his memory and his friendship and I assure you that he will be touched as we all tell Genny, his good wife, and all his family of our deep sorrow at his passing and our condolences to all of them on their loss of a good husband, father, grandfather, and brother. And our condolences to each other on our loss of the best of friends. May I conclude by requesting that all you join me in a few moments of silent prayer, each of us in his or her own way asking the good Lord to grant this good man the blessings of eternity. May Charles Stone Jones rest in peace eternal.

EMERGENCY SCHOOL ASSISTANCE ACT

Mr. MONDALE. Mr. President, the program which would be implemented under the Emergency School Assistance Act, H.R. 19446, passed last week by the House, has been in operation in limited form this fall under an emergency appropriation requested by the President last summer.

Amendments attached to that appropriation in the Senate and regulations issued by HEW to govern distribution of the funds contain safeguards substantially identical to those contained in the House bill before us.

These safeguards prohibit assistance to local educational agencies which give public support to racially segregated private academies. They prohibit assistance to local educational agencies which fire or demote black faculty members. They prohibit assistance to local educational agencies which maintain segregated classrooms or extracurricular activities as a method of prepetuating segregation within so-called desegregated schools.

And yet, a carefully documented report recently issued by six civil rights groups—American Friends Service Committee, Delta Ministry of the National Council of Churches, Lawyers Committee for Civil Rights Under Law, Lawyers Constitutional Defense Committee, NAACP Legal Defense and Education Fund, Inc., Washington Research Project—demonstrates widespread abuse of these provisions and the total failure of HEW to act to correct noncompliance. Of the 295 local educational agencies visited by the six civil rights groups, 179 were found to be in clear violation of the statute and regulations. In 87 others, the six groups found significant evidence of violations. Federal funds are supporting segregated classrooms; segregated transportation systems; segregated faculties and staff; dismissal and demotion of qualified black teachers, principals, and coaches; and donation of property and services to private segregated schools. Federal funds are supporting school districts which refuse to comply with plans for student assignment submitted to HEW or ordered by Federal courts.

Mr. President, I ask unanimous consent that the report to which I have referred may appear in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MONDALE. Mr. President, in addition, reviews of project applications by the six civil rights groups and by members of my staff demonstrate that HEW has made no concerted effort to support or encourage development of affirmative programs for quality integrated education. Rather, HEW has expended these funds as general aid on the basis of applications which lack specificity for projects which are often unrelated to the process of school integration.

One application which came to my attention was actually approved by HEW before it was received. Large numbers were approved within hours of receipt.

Mr. President, on the basis of the performance of HEW to date, it is my fear that provision of $1.5 billion under the vague terms of the House bill will result in more of the same, a fraud upon the school children it is intended to benefit.

The House bill provides a double standard for funding. School districts in the South will be funded for compliance with plans of desegregation ordered by Federal courts or approved by HEW under title VI of the Civil Rights Act of 1964. School districts in the North will receive funds for projects designed either to eliminate or to reduce racial isolation in one or more schools. The standards contained in the House bill, nearly identical to those proposed by the administration, are negative—schools in the South will receive funds if they are under court order, regardless of whether the court order actually results in desegregated schools. Schools in the North will receive funding for "reducing racial isolation"—even though only token numbers of minority students may be affected.

As a second report issued several days ago by the six civil rights groups demonstrates, under plans prepared by the Office of Education and accepted by district courts at Justice Department urging, or accepted by HEW under title VI, many school districts continue to maintain schools that are all black or so heavily black that resegregation is certain to take place. It is my opinion and the opinion of the most distinguished legal experts that many of these plans do not meet the requirements of the 14th amendment or title VI.

For northern school districts the House bill proposes funding programs either to eliminate racial isolation in one or more schools or to reduce the number of minority group children attending racially isolated schools. Under the program as defined in the House bill, northern school districts will transfer small numbers of minority group students into previously all-white schools, which will then receive a substantial investment of Federal funds under very vague program guidelines.

Two highly destructive amendments were added to the House committee bill on the floor of the House. One, the so-called Collins amendment, would pro-

hibit funding of voluntary programs involving transportation in de facto segregated school districts, while permitting funding of transportation required under title VI or court-ordered desegregation plans. The second amendment might well result in funding school districts which maintain segregated classrooms within supposedly desegregated schools.

Massive funding under the loosely defined criteria contained in the House bill will not increase our ability to evaluate the benefits of truly integrated education, or our knowledge of the best educational techniques to employ.

I would hope that this $1.5 billion could be invested in a nationwide educational program to explore, on a voluntary basis, North and South, the most helpful techniques for achieving quality integrated education in public schools.

The bill prepared by the Education Subcommittee of the Committee on Labor and Public Welfare would establish such a program.

Over 40 percent of the funds authorized would be invested in stable, quality integrated schools, containing both educationally advantaged and disadvantaged children, within school districts throughout the Nation. The establishment of these schools would demonstrate that truly integrated education is beneficial to all of the children involved.

Ten percent of the funds authorized would be invested in voluntary programs of urban-suburban cooperation on the model suggested by Senator RIBICOFF, to establish integrated schools containing at least half the proportion of minority group students found in the metropolitan area as a whole.

Ten percent of the funds authorized would be invested in the establishment of several demonstration education parks. Many experts, including the Commissioner of Education, Mr. Marland, believe that education parks are among the most hopeful strategies for the long-term improvement of urban education; yet it is clear that without Federal support local school districts are unable to experiment with this promising concept.

Five percent of the funds would be invested in integrated educational television on the "Sesame Street" model. A recent report by the Educational Testing Service of Princeton, N.J., indicated that such programs can play an important part in the development of crucial academic and social skills in children from all racial and economic backgrounds.

Between 10 and 15 percent of the funds authorized would be invested in special pilot programs designed to improve the academic achievement of children in minority group isolated schools. We hope that these programs will result in the development of promising strategies for the education of children in school districts where integration cannot be achieved in the near future.

Three percent of the funds would be reserved to reimburse the cost of successful suits by parents and teachers to enforce the terms of the act, of related education legislation, and the constitutional guarantees of the 14th amendment and title VI of the Civil Rights Act of 1964. By opening up the resources of the private bar, injured citizens would be provided some guarantee against the abuses which have occurred under the emergency appropriation.

Six percent of the funds would be reserved for funding of private nonprofit organizations, including community groups, for projects designed to promote equality of educational opportunity.

Ten percent of the funds would be reserved to the Commissioner of Education for allocation among otherwise authorized activities.

The issues are not easy ones. Are we to adopt a nationwide program to fund innovative, hopeful programs in integrated education, carefully designed, in order to increase the body of our knowledge concerning this most urgent and divisive of educational issues? Or are we to follow the course of expediency by appropriating vast sums of money to the discretion of an administration whose negative and highly political approach in this area has been documented time and again?

The Senate floor in the waning days of this legislative session is not the place to begin exploration of these questions. The Education Subcommittee under the able leadership of the distinguished Senator from Rhode Island has held extensive hearings on these issues. The Select Committee on Equal Educational Opportunity, of which I have the honor to be chairman, has invested nearly 9 months of intensive work in an effort to understand the problems.

I, therefore, view with particular regret the administration-sponsored tactic last week which stopped the House bill at the Senate desk and thus prevented its consideration by the Committee on Labor and Public Welfare.

On the day that the House bill reached the Senate, last Monday, the Committee on Labor and Public Welfare has scheduled a special executive session to consider it. The chairman of that committee, the able and distinguished Senator from Texas, had obtained special permission from this body for the committee to meet, despite a general objection to committee meetings while the Senate was in session.

During that morning, four members of the Committee on Labor and Public Welfare, including Senators PELL, JAVITS, PROUTY, and myself, met with Secretary Richardson and with Eugene Cowan, a member of the White House staff. We asked the administration to permit the House bill to be referred to committtee, and promised our best efforts to assure that a bill would be promptly reported to the Senate floor, with the benefit of consideration by the committee and a committee report. But in the face of our request and in the face of the efforts of our chairman, the House bill, at the request of the administration, was held at the desk. This parliamentary maneuver added yet another complex and sensitive issue to the complex and sensitive issues facing this body, while depriving the Senate of the advice of its Committee on Labor and Public Welfare.

I am sure the administration believes that holding the House bill on the floor has increased its chances of final passage, but the administration is mistaken. Under no conceivable circumstance could the Senate accept this bill in its present form, with, among other major defects, the disastrous Collins amendment prohibiting the funding of voluntary programs which involve transportation in so-called "de facto" districts, while permitting funding of transportation programs adopted pursuant to court order or title VI plans. Since there will be differences in any event between the Senate and House bills, there must be a conference.

The Labor and Public Welfare Committee of the Senate and the Education and Labor Committee of the House have excellent records in reaching agreement in conference. There is every reason to expect that the interest of the children who are the intended beneficiaries of this legislation will be best served by the enactment of a genuine Senate bill and reliance on the conference procedure. The administration has done a disservice to the legislative process by keeping the House bill from committee for a full week. I hope that it will not compound its error by continued reliance on parliamentary stratagems.

Mr. President, if necessary I will work to improve the House bill. If necessary, I will submit amendments which I hope will have that effect. But I do not believe that, in the closing hours of this session, the Senate can fulfill its responsibilities to face and to resolve the major issues of national educational policy presented by this legislation, without the advice of the committee which bears responsibility in this area.

EXHIBIT 1

THE EMERGENCY SCHOOL ASSISTANCE PROGRAM—AN EVALUATION

INTRODUCTION AND SUMMARY

The promise of the Emergency School Assistance Program has been broken.

Funds that were appropriated by the Congress last August to help desegregated public schools have been used for general school aid purposes unrelated to desegregation. In many instances, funds have been granted to school districts that are continuing to discriminate against black children.

This report, prepared by a group of private organizations concerned with the problems of race, education and poverty, is an evaluation of the first months of the administration of the Emergency School Assistance Program (ESAP). The report is based upon personal visits to nearly 300 school districts receiving ESAP grants by attorneys and by other persons experienced in school desegregation problems, and upon a review of the grant proposals of over 350 successful applicant districts.

We found serious defects in the administration of the program.

1. Large numbers of grants have gone to districts engaging in serious and widespread racial discrimination. Of the 295 ESAP-assisted districts which we visited, 179 were engaged in practices that rendered them ineligible for grants under the statute and the Regulations. In 87 others, we found sufficient evidence to consider the districts' eligibility questionable. In only 29—less than 10 percent—did we find no evidence of illegal practices. Specifically, we found:

94 clear and 18 questionable cases of segregation of classrooms or facilities within schools;

47 clear and 10 questionable cases of segregation or discrimination in transportation;

62 clear and 4 questionable cases in which faculties and staff had not been desegregated

in accordance with applicable requirements;

98 clear and 123 questionable cases of discrimination in dismissal or demotion of black teachers or principals;

12 clear and 4 questionable violations of student assignment plans approved by HEW or ordered by the courts;

13 clear and 39 questionable cases of assistance by the grantee school district to private segregated schools.

2. ESAP funds have been used to support projects which are racist in their conception, and projects which will desegregate black students within integrated schools.

3. A substantial portion of the "emergency" desegregation funds have not been used to deal with desegregation emergencies; they have been spent for purposes which can only be characterized as general aid to education. Many of the grants are going to meet ordinary costs of running any school system, such as hiring more teachers and teacher aides, buying new textbooks and equipment, and repairing buildings—needs that desegregating districts have in common with school systems throughout the United States.

4. Grants were made to school districts that are not operating under terminal desegregation plans and therefore do not meet the initial condition of eligibility for ESAP funds.

5. In the haste to get some money to as many southern school districts as possible, ESAP money has been dissipated in grants which in many cases are too small to deal comprehensively and effectively with the problems of desegregation.

6. In contrast to the hasty and haphazard way in which grants for school districts have been approved, the significant provision of the ESAP Regulations authorizing community groups to receive grants under the program to lend their assistance to the desegregation process has been virtually ignored—not a single grant has been made to a community group.

7. In many districts, biracial advisory committees have not been constituted in accordance with the requirements of the Regulations.

8. The funding priorities used by ESAP administrators have been distorted. Only a very small portion of ESAP funds have gone to projects that emphasize student and community programs designed to improve race relations in desegregation districts.

ESAP grants are being distributed to school districts on a quarterly basis. In most cases, only the first of four federal payments has been made. Thus, before any additional money is spent, HEW still has an opportunity to correct in part the mistakes that have been made—at least to require civil rights compliance by recipient districts—and to redirect the program toward the ends which Congress intended. We are issuing this report now in the hope that responsible federal officials will take appropriate steps and end the abuses we have found in the program.

CHAPTER I. A DESCRIPTION OF THE EMERGENCY SCHOOL ASSISTANCE PROGRAM

A. Legislative history

On March 24, 1970, President Nixon issued a comprehensive statement setting forth his Administration's policies on school desegregation. He called for the enactment of a two-year $1.5 billion program, designed in part to assist school districts "in meeting special problems incident to . . . desegregation." On May 21, 1970, in a second message, the President noted the large number of school districts in the South scheduled to implement terminal desegregation plans at the start of the 1970–71 school year, and called for immediate appropriation of $150 million to aid these districts in the process of desegregation.[3] In August, Congress responded by granting half of the President's request, appropriating $75 million and thereby establishing the Emergency School Assistance Program.

In the Senate hearings at which the Administration's proposal was considered, concern was expressed that the projects that would be funded were likely to be ineffective, or, worse, harmful to the desegregation process. It was feared that the funds would be used to assist districts engaged in discriminatory practices, that they would duplicate existing school aid programs and that the community would not be involved in the development and implementation of ESAP projects. Some critics argued that the proposal amounted to a political pay-off to the South to assuage the reaction to desegregation requirements, and that there was no "emergency" requiring a precipitate infusion of new federal funds.[3]

Senator Mondale questioned whether federal "aid to desegregation" might actually be used to support districts engaging in discriminatory practices. He cited a number of practices which had been reported in nominally desegregated southern districts, including segregated classrooms, segregation and discrimination in extracurricular activities, discriminatory treatment of black teachers and principals, pupil segregration through testing and tracking, and aid by public school systems to segregated private schools.

Responding for the Administration, Secretary Finch conceded that these abuses existed, but assured the Committee that:

"[the Administration would] under no circumstances . . . fund districts . . . who fire or demote anyone on the basis of race or with segregated classrooms or other basic things that you mentioned." [5]

Secretary Finch also promised that ESAP would be administered as a competitive grant program, with money going only to those districts whose proposals showed specific promise of dealing comprehensively and effectively with the problems of desegregation.[4] This would make more likely the rejection of proposals with little or no relation to problems of desegregation.

In appropriating $75 million for ESAP, Congress placed only three substantive restraints on the program. Two dealt with particular racially discriminatory practices—aid by school districts to private schools which discriminate on the basis of race in admissions, and the withdrawal of local and state funds from public schools as a result of desegregation. The third was designed to open up the program to northern school districts and to districts desegregating under the orders of state courts as well as federal courts and state administrative agencies.[5] The balance of ESAP remained to be formulated in the Regulations to be adopted by the Secretary of HEW.

B. ESAP regulations

1. Preventing use as general aid

The overall thrust of the Regulations is to confine ESAP grants to projects meeting "special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools," and hence to bar the use of the money as general aid to education. The money is to contribute to the cost of "new or expanded activities . . . designed to achieve successful desegregation." [6] The Regulations established as the criterion for determining whether and to what extent a district should be aided under the program, the "relative promise of the project or projects to be assisted in carrying out the purpose of the program" and "the extent to which the proposed project deals comprehensively and effectively" with problems of desegregation.[7]

The portion of the Regulations describing "authorized activities" which can be funded under the program list several which may or may not relate to special problems of desegregation:

"Providing for individualized instruction, team teaching, nongraded programs, and the employment of master teachers"

"Upgrading basic skills and instructional methodologies"

"Providing teacher aides whose employment will help improve instruction in schools affected by desegregation." [8]

The inclusion of these items created the need for rigorous evaluation of grant applications to assure that projects falling within these categories were specifically related to problems of desegregation, so that ESAP money would not be used as general school aid.

2. Prohibiting Grants to Racially Discriminatory Districts

ESAP, like all federal spending programs, is governed by Title VI of the Civil Rights Act of 1964, which prohibits the use of federal funds to assist racially discriminatory programs or activities. In addition, the ESAP Regulations expressly require that applicants give formal assurances that they are not engaging and will not engage in certain specifically enumerated racially discriminatory practices:

First, the past transfer of goods or services to private schools which practice racial discrimination with the purpose of encouraging or supporting such schools, or the future transfer of goods or services to such schools for any purpose;

Second, discrimination on the basis of race in the hiring, firing, promotion or demotion of teachers, principals or other staff who work with students;

Third, the failure to assign teachers and other staff who work with students so that the ratio of minority to nonminority faculty and staff in each school is "substantially the same" as the ratio in the school district as a whole;

Fourth, the use of any devices, "including testing", in the assignment of children to classes or in carrying out other school activities, which discriminate on the basis of race, or which "result in the isolation of minority and nonminority group children." [9]

In addition, districts may not receive ESAP grants if their state or local funding has been "withdrawn or reduced as a result of desegregation." [10]

3. Assuring Community Participation

To assure that school boards would not ignore the interests of the community in formulating and administering ESAP projects, the Regulations require biracial community committees and student participation in the program.

Each successful applicant is required to establish a biracial committee, made up half of minority and half of nonminority members. At least half of the members are to be parents of children directly affected by the district's ESAP-funded project. Where a biracial committee of this general character has been established by court order, that committee is to act as the ESAP committee. Where no court-established committee exists, school officials are to select a group of organizations "which, in the aggregate, are broadly representative of the minority and nonminority communities to be served." Each of these organizations appoints one member to the biracial committee. School officials are then to appoint sufficient additional members to bring the committee to the 50–50 minority-nonminority ratio required, and to assure that at least 50 percent of the members are parents.

School officials must consult with existing court-established advisory committees both on the formulation and the administration of the ESAP-funded program in the district. Where no court-established committee exists, however, the officials need only list the nominating community organizations in their

Footnotes at end of article.

grant application, and are given 30 days after the approval of their grant to assemble the committee. Thereafter, school officials are required to consult with the committee concerning the administration of the project.[11]

The Regulations further require that with the opening of school, a student advisory committee, half minority and half nonminority, be selected "by the student body" of each secondary school affected by an ESAP project. School officials must consult with the student advisory committee with respect to carrying out the project and the "establishment of standards, regulations, and requirements regarding student activities and affairs."[12]

4. Authorizing Grants to Private Groups

The Regulations provide for ESAP grants to private nonprofit groups, where such groups propose projects which will assist in the desegregation process. Ten percent of the money appropriated for ESAP is set aside for such grants. Any part of the 10 percent not spent on these grants is to be reallocated to the general program and made available to school officials.[13]

C. Administration of ESAP

1. Grants to School Districts

The funds for ESAP were appropriated on August 18. The Regulations governing the program had already been prepared, and they were published in the Federal Register on August 22. The Commissioner of Education was vested with responsibility for the administration of the program, and he delegated this responsibility to the Office of Education's Division of Equal Educational Opportunity (the Title IV office).[14] Grant application forms had also been prepared, and they were distributed and explained to school superintendents in hastily arranged statewide meetings in each of the southern states, the earliest of which was held on August 20. At these meetings, great stress was placed on the speed with which applications would be processed; school officials were told to go home for a day or two, decide what their needs were, and then reassemble at workshops manned by Title IV personnel, at which time they and the federal officials would jointly fill in the details of the grant applications.[15]

In the days following, teams of Title IV experts helped hundreds of school officials through the necessary paperwork and the grant applications started pouring in. The first grant, $1.5 million to Jackson, Mississippi, was announced on August 28. By October 2, 488 grants had been awarded, totaling over $26 million. By October 30, 722 grants were committed, obligating over $47 million.

This large number of grants within such a short period of time was possible only because the Title IV regional offices were placed under a "36 hour turn-around" requirement in processing formal applications—that is, an application had to be approved (or disapproved) within 36 hours after it was received in the regional office.

Because of this extraordinary time pressure, grant applications received little or no substantive evaluation. Within days after the process started, the concept of a competitive program of aiding selected districts according to the promise of the proposals to deal comprehensively and effectively with desegregation problems—the criteria mandated by the Regulations—had been largely abandoned. In some cases, districts were being quoted "ballpark figures" approximating the grants they might receive, based upon such mathematical factors as the size of the districts' budgets, the number of minority students, and the number of students reassigned under their desegregation plans. The substance of the districts' proposals—their relationship to problems of desegregation or lack thereof—played little role in the calculation.

Similarly, civil rights compliance review was made almost impossible by the demand for speedy and widespread distribution of money. Early in the process, the Civil Rights Division of HEW's Office of the General Counsel called individuals familiar with school desegregation problems, such as the field representatives of the American Friends Service Committee, to determine if there were reports of violations of Title VI or of the ESAP Regulations in the applicant districts. But this practice was soon abandoned, apparently because it caused too much "delay" in processing applications. The civil rights compliance "check" was thereafter reportedly limited to a review of HEW files to determine whether there were any outstanding civil rights complaints against the applicant district. If there were none, the district was assumed to be in compliance. The importance of civil rights compliance was thus seriously downgraded.

2. The Neglect of Private Groups

In many school districts, there are community organizations which for many years have fought for school desegregation while school officials fought against it. These groups have shown a commitment to desegregation and have developed expertise in the field. Black community organizations can help black students adjust to desegregation, and bring home a black viewpoint to white parents, students and teachers who may have had little prior contact with black people as equals. Private biracial human relations groups have useful experience in running programs designed to promote interracial communication and understanding. It was to assist these organizations, that part of the ESAP money was reserved for grants to such private groups. But, in sharp contrast to the public grant side of ESAP, the program of grants to private nonprofit groups has been characterized by stagnation and delay. At the outset, this program was severed from the main ESAP grant machinery, because high-level Title IV officials opposed the concept of ESAP grants to private groups.[16] The private groups grant program was temporarily turned over to the Center for Community Planning in the Office of the Secretary of HEW, a body with little previous experience either in distributing federal grants or in dealing with problems of school desegregation.

Grant applications for public ESAP projects were already available when the program became law on August 18, and within days these applications were being distributed and explained to school officials. By contrast, the government did not even inform leaders of private groups active in school desegregation of the availability of ESAP. When some of these groups learned of the program and sought help in taking advantage of it, they were told that the Title IV meetings were primarily for school officials; that they were free to attend but could expect neither information about their aspect of the program nor assistance in formulating proposals.

Application forms for private groups were not available until October, when meetings were finally held in Atlanta and Dallas to acquaint selected community leaders with the program. By this time, administration of the private groups aid program had been transferred to a special agency established within the Office of Education for this purpose. By the middle of November, not a single grant to private groups had been made. As a result, the important contribution which these groups might have made in the crucial opening months of school in newly integrated districts has been lost.

FOOTNOTES

[1] The emergency funds for ESAP were appropriated under authorizations granted in six statutes: the Educational Professions Development Act, Part D (20 U.S.C. 1119–1119a); The Cooperative Research Act (20 U.S.C. 331–332b); the Civil Rights Act of 1964, Title IV (42 U.S.C. 2000c–2000c–9); the Elementary and Secondary Education Act of 1965, section 807 (20 U.S.C. 887); the Elementary and Secondary Education Amendments of 1967, section 402 (20 U.S.C. 1222); and the Economic Opportunity Act of 1964, Title II (42 U.S.C. 2781–2837).

[2] Hearings on the administration's proposal were held before the Subcommittee on Education of the Senate Committee on Labor and Public Welfare ("Pell Hearings"), on June 9 and June 30, 1970; and before the Senate Select Committee on Equality of Educational Opportunity ("Mondale hearings"), on June 16, 22 and 24, 1970. The concerns noted in the text were expressed by Senators Mondale and Kennedy at the June 9 Pell hearing, by Winifred Greene and M. Hayes Mizell of the American Friends Service Committee and Melvyn Leventhal of the NAACP Legal Defense Fund at the Mondale hearings, and by Marian Wright Edelman of the Washington Research Project at the Pell hearings.

[3] Pell hearings, at page 57 (printed record).

[4] Pell hearings, at page 53.

[5] P.I. 91–380. "Emergency School Assistance. For assistance to desegregating local educational agencies as provided under Part D of the Educational Professions Development Act (title V of the Higher Education Act of 1965), the Cooperative Research Act, title IV of the Civil Rights Act of 1964, section 807 of the Elementary and Secondary Education Amendments of 1965, section 402 of the Elementary and Secondary Amendments of 1967, and title II of the Economic Opportunity Act of 1964, as amended, including necessary administrative expenses therefor, $75,000,000: *Provided*, That no part of any funds appropriated herein to carry out programs under title II of the Economic Opportunity Act of 1964 shall be used to calculate the allocations and proration of allocations under section 102(b) of the Economic Opportunity Amendments of 1969: *Provided, further*, That no part of the funds contained herein shall be used (a) to assist a local educational agency which engages, or has unlawfully engaged, in the gift, lease or sale of real or personal property or services to a nonpublic elementary or secondary school or school system practicing discrimination on the basis of race, color, or national origin; (b) to supplant funding from non-Federal sources which has been reduced as the result of desegregation or the availability of funding under this head; or (c) to carry cut any program or activity under any policy, procedure, or practice that denies funds to any local educational agency desegregating its schools under legal requirement, on the basis of geography or the source of the legal requirement.

[6] 45 C.F.R. Part 181.2. The Emergency School Assistance Program Regulations are to be found at 45 C.F.R. Part 181. They are cited herein as Regs.

[7] Regs. 181.10.

[8] Regs. 181.4(c)–(d).

[9] Regs. 181.6(a)(4)(D)–(G).

[10] Regs. 181.6(a)(4)(B)(ii).

[11] Regs. 181.7.

[12] Regs. 181.8.

[13] Regs. 181.3(b)–(c).

[14] The Division of Equal Educational Opportunity administers the program of federal grants, authorized by Title IV of the Civil Rights Act of 1964, to provide technical assistance to school districts undergoing desegregation.

[15] These accounts of the meetings between Title IV officials and local school officials are based on reports by staff members of the American Friends Service Committee and the Washington Research Project, who attended meetings held in Alabama, Louisiana, Texas and Virginia.

[16] At a meeting between Title IV officials and local school officials, held August 24, 1970 in Austin, Texas, and attended by a member of the Washington Research Project staff, a Texas state education official stated that Title IV officials had told him that they expected that most of the money

set aside for grants to private groups would not be spent for that purpose, but would be reallocated for use by school officials.

CHAPTER II. THE EXPENDITURE OF ESAP FUNDS

In connection with this study, the Department of Health, Education and Welfare was asked to make available the applications from school districts to which grants had been made under ESAP. In response, 368 approved applications from school districts in 13 states were provided. These represent slightly more than 50 percent of the applications approved by October 30, and 43 percent of the funds obligated by that date.

A review of these applications reveals that ESAP grants have been made to school districts that are ineligible under the Regulations. Other ESAP grants have funded projects that are racist in their conception, or that may lead to resegregation. The primary use for which ESAP funds have been approved has been general school aid unrelated to the "special needs" occasioned by the desegregation process. Moreover, ESAP funds have been awarded in a manner which relegates vital community and student programs to a minor role. Finally, funds have been distributed in small grants among many districts, and the priority that the Regulations establish for comprehensive projects has been ignored In each of these respects, the purposes of the program have been badly distorted

A. Grants to ineligible districts

The ESAP Regulations establish certain preconditions to eligibility for an ESAP grant. Among these are the requirement that the school district be desegregating under a plan calling for the complete elimination of the dual system and approved by a federal district court or by HEW, and the requirement that the grant application, at the very least, list the community organizations which have been selected by the school board to nominate the members of the biracial advisory committee [1] Our review of ESAP approved applications has revealed that school districts have been funded despite their noncompliance with these explicit requirements.

1. Grant to Districts Without Approved Desegregation Plans

Northampton County, Virginia does not have an approved plan—indeed federal financial assistance to that district was terminated under Title VI on September 13, 1968 because of its refusal to adopt an acceptable plan. Nevertheless, it is receiving a $28,000 grant. Stewart County, Georgia is still operating under an obsolete freedom of choice plan dating from before 1968, yet it is receiving a $40,000 grant in violation of the requirement that ESAP applicants be operating under terminal plans effective in the 1968–69 school year or thereafter.

The Metropolitan Public Schools of Davidson County (Nashville), Tennessee was granted $565,400 in SEAP funds. Nashville has submitted a plan for faculty and student desegregation to the federal district court. But while the court approved the faculty plan, it reserved judgment on the student plan until the Supreme Court decides on the school cases now pending before it. Thus Nashville does not have the terminal desegregation plan required by the Regulations.

2. Grants to Districts Out of Compliance with the Advisory Committee Requirement

A number of districts are receiving ESAP grants although they have not followed the Regulations requiring the establishment of a biracial advisory committee. Some make no mention at all of such a committee, although the Regulations specify that a list of the community organizations selected to nominate the members of the committee must accompany each application. Among these districts are Newport and Prescott County, Arkansas, and St. Clair County, Alabama.

The Regulations specify that each applicant district is to name between five and fifteen organizations, "which in the aggregate are broadly representative of the minority and nonminority communities to be served." These organizations are each to name a member to the committee. Only then are school officials authorized to select additional committee members, and then only to the extent necessary to achieve the required ratio of minority and parent members.[2] Many successful applicants appear to have violated these provisions in forming their biracial committees.

In Camden County, Georgia, the seven members of the biracial committee were selected by the school board "according to contact with the people and interest in the progress of the Camden County community." In Butts County, Georgia, the eight members of the committee were selected by the school administration with the intent to obtain a cross-section of the community . . .".

In Russell County, Alabama the temporary committee members were "selected from among community leaders known to be cooperative in matters pertaining to education." The purpose of the Regulation requiring selection by community organizations and not by the school board is precisely to avoid a committee made up of persons whom school boards, which have long opposed desegregation, considered to be "cooperative."

Even in those districts which did choose organizations to select members of the biracial committee, there are serious questions whether the organizations chosen encompass a broad range of community opinion. For example, Cleveland, Tennessee is receiving an ESAP grant to hire a black person with expertise in guidance and counseling "to give the image of a black person working in a responsible position" in the school system. This project was proposed in response to pressure from the local branch of the NAACP which organized a two-day boycott of the schools. In its ESAP application, the school district lists five organizations which will select members of the biracial advisory committee. The Cleveland NAACP branch is not among them.

B. ESAP funding of racist projects

ESAP funds have been approved for the support of a variety of programs which are racist in their conception, and which are likely to exacerbate the level of racial tension.

1. Character and Hygiene of Black Students

Andalusia, Alabama proposed a "community program" to deal with the "morals, conduct, health and personal standards of black students and the home environment of black students . . ." According to the application, "the houses and neighborhoods (of black children) are generally unattractive. Little effort is made to make the surroundings attractive with flowers, pictures or furnishings . . . ." The grant will pay for visits by teachers to the home of each black child.

Similarly, Lake County, Tennessee defined its emergency as the general character of black children. According to the district's application, black children "show poor self concepts . . . use dirty, vulgar language . . . show poor oral hygiene and health habits . . . (poor bathroom habits) . . . display poor eating habits and table manners." ESAP money was granted to hire a physical education director whose job is to deal in some undefined way with the board's concept of the "character" of their black students.

Lee County, Georgia received an ESAP grant to provide bathing facilities for black children. The application asserted that because the homes from which these students come are without "modern bathing facilities, cleanliness, good health and sanitary conditions in the school demand" the provision of these services.

Madison County, Mississippi described its most "pressing problem brought about by court ordered desegregation" as the "sanitation and personal hygiene" of its students. "For students to accept close association with the opposite race, a very close watch must be kept on the cleanliness of all aspects of the operation of the school. This is especially true with females." ESAP money was granted to hire a female hygienist for each of its four schools.

Caswell County, North Carolina emphasized the concern of parents that "a child would be assigned to an ill-kept drab environment; given dirty books and forced into class association with dirty peers." It defined its emergency as "a wide variety of family values and standards of living, from the child who sleeps in the same underwear he wears to school for a week without change and emits odors offensive to those in proximity, to the child who comes to school each day freshly bathed and groomed." Its $95,000 grant will be used for programs "facilitating desegregation through upgrading total individual and group health: physical, emotional, mental and social."

2. Resegregation

Some projects, by their design, suggest a new effort on the part of local school officials to resegregate students within the "integrated" schools, with the direct assistance of the federal government.

Douglas County, Georgia received an ESAP grant to purchase two vans for the purpose of transporting black students from the junior high schools to cooperating businesses, industries and service centers "so that learning experience would more nearly meet the individual needs of the black students." Thus ESAP money is funding a project that is based on the assumption that only black students need vocational as opposed to academic training—and which removes black students from the newly integrated school.

According to the application filed by Wichita Falls, Texas, it is necessary, because of a shortage of school buses, to keep 476 black elementary students at a "closed" school for the first hour of the school day. There are too few buses to transport all the white students according to a regular schedule. After the other students are transported, the buses come for the 476 and take them to several "integrated" elementary schools. ESAP money was granted to employ teachers and aides to teach these students for the first hour and then to move and stay with them for the rest of the day, thus effectively assuring that they remain in separately identifiable racial groups.

3. Other Racist Projects

Greenville, Mississippi traces its emergency to the "politics of confrontation and antithesis strategies (sic) applied by inauthentic critics skilled in the use of negative propaganda and disruptive procedures." To meet this crisis, Greenville was granted $30,580 to fund "some form of competent supervision and/or surveillance under the direction of legally constituted authority."

At least one district applied for and received an ESAP grant to pay the salary of a former black principal who was demoted when the school was desegregated. Humboldt, Tennessee is receiving $10,000 to pay the salary of the "black associate principal [who] can work closely with the black students as well as the whites." He was formerly principal of a black school in the district.

C. General aid to education

A substantial number of successful applicants sought ESAP funds to supplement their general education budgets by paying for more teachers, more janitors, more equipment and more supplies. While these expenditures may be worth while, they represent needs shared by all school systems, whether or not they are engaged in the process of de-

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segregation. In some cases, the proposals did not even attempt to link the money to desegregation. In many others, the nature of the projects funded indicates that no more than lip services was paid to the requirement, explicitly set forth in the Regulations, that ESAP projects be designed to meet the special costs of desegregation.

1. Teacher Aides and Teacher Training

Of the applications we have reviewed, more ESAP money went for teacher aides and teacher training than for any other single purpose. Frequently, no effort was made to tie the need for the aides to desegregation.

For example, Charlotte County, Virginia is receiving $11,100 to hire four aides so that the school libraries can be kept open during the entire school day.

Nassau County, Florida is receiving $25,000 to help in the districts "effort to improve our school system" by providing teacher aides and additional clerical personnel because "first grade teachers are required to do too much clerical duties" and "librarians offer little help to students, teachers and administrators."

Greenville, North Carolina is receiving $41,700 to employ 12 teacher aides to reduce time pressures on the regular teachers. This need was explained in terms of a recent defeat of a referendum to increase local financial support for the schools, which, together with the demand for higher salaries, had "necessitated a reduction in the number of locally paid personnel."

Laurel, Mississippi will spend $14,476 out of a $50,000 grant to train teachers in the use of certain unspecified equipment. Amite County, Mississippi is receiving $10,200 in ESAP funds to pay overtime stipends to the professional staff for their attendance at training programs designed to increase teaching efficiency through the explanation of "recent innovative techniques and methods . . ."

2. Textbooks and Physical Equipment

Millions of dollars of ESAP money have been allocated to the purchase of new classroom materials, including textbooks, and for the purchase of such items as playground equipment, softballs, ping-pong tables, intercom systems, "35 individual air-conditioning units in teacher stations," film strips, projectors, tape recorders, television sets and shower facilities. Many systems will use all or substantially all of their ESAP funds for expenditures of this kind.[3]

LaMarque, Texas will use half of its $30,941 ESAP grant to complete a television project at the high school. The school district had planned a central television studio and a closed circuit system connecting every classroom. But "due to lack of funds," the program was not completed. ESAP will now provide the money to finish wiring the classrooms, to buy movies and a tape recorder, and to pay the part-time salary of a person associated with the television program.

Wilson County, North Carolina will use part of its ESAP money to buy playground equipment, which was not available at any of the schools in the past, so that children can "work and play together successfully."

Sampson County, North Carolina will spend $21,000 in ESAP funds for equipment, including manual and electric typewriters, washers and dryers, steam irons and ironing boards, projectors, duplicators, microscopes, vacuum cleaners, a table, a lamp, two upholstered chairs, a commercial refrigerator and oven, piano casters, an automatic blanket cleaner attachment, and a kitchen sink.

Charleston County, South Carolina will use its $441,218 grant to establish a television studio—to equip it, air condition it, staff it and maintain it. Flagler County, Florida will use its entire $15,000 grant to renovate its physical education dressing room and shower facilities. The application states that "lack of a proper climate control system with an attending high humidity has brought about an understandable dissatisfaction on the part of both students and physical education teachers." The money will be used for the installation of an air and climate control system and for addition of more showers and toilets.

While many districts receiving money for general aid did not refer to desegregation, others made contrived attempts to link their general aid requests to the purposes of ESAP. For instance, Berrien County, Georgia sought and was granted money to purchase electric fans on the grounds that "a closed classroom in a South Georgia climate can be unbearably hot without [a] cooling system." The fans "should make students of all races more at ease in the classrooms. . . ."

3. Curriculum Revisions

Several districts have received grants for curriculum revision, with no effort to relate their proposals to problems incident to desegregation. Jackson, Mississippi, which was awarded the first and one of the largest ESAP grants, $1.5 million, is a case in point.

The Jackson application defines its emergency not as making desegregation work, but as saving the city from the effects of it. The application states:

"This change [court ordered desegregation] has created a crisis in the city. There are indications that unless rapid and dramatic improvement in the quality of education can be demonstrated . . . the City will suffer economically and socially. . . . Ways must be found immediately to redevelop the public schools so that they will merit and attract the confidence and support of all citizens in Jackson, Mississippi. There is evidence to indicate that unless this is done, educationally, socially and economically, Jackson will not grow but will be eroded by conditions that exist."

Over one-half of the 1.3 million dollars granted to Jackson was authorized for a general curriculum revision program which is simply designed to upgrade the quality of teaching in the school system.

Pinellas County, Florida proposes to use its entire $125,459 ESAP grant on "Project Read", a program designed "to dramatically increase the reading abilities of 3800 students" in the system. Referring to the success of this same program in Detroit, New York, and San Francisco, the application states:

"The inadequacy of conventional reading instruction in this county's large urban communities is a well established fact. . . . The typical student in the large urban school system is not learning to read adequately."

D. The minor role of community and student programs

In connection with congressional consideration of the Administration's school desegregation aid proposals and the development of the ESAP program, civil rights advocates experienced in the desegregation process strongly urged that the highest priority under any desegregation aid program be accorded to community and student projects, which would disseminate information about desegregation plans, bring students, teachers and parents together to discuss desegregation problems, and establish mechanisms through which students could resolve potentially volatile issues arising out of the desegregation process. HEW officials gave their assurances that projects of this kind would in fact be emphasized in the administration of the ESAP program.

The events of the past few months strongly corroborate the need for student and community programs to alleviate tensions associated with school integration. Almost daily, there have been press reports of racial incidents in desegregated schools.

In fact however, only a small number of districts received funds for programs involving student or community activities aimed at alleviating these kinds of problems. Of the 368 districts we reviewed, only 97 had community programs funded. In Georgia, for example, only 13 of 113 approved applications we reviewed included community programs. Only 1.7 percent of the money spent in Georgia was directed toward such programs.

Student programs received even less emphasis, with only 60 of the 368 districts receiving funds for programs of this kind. The student programs, in their entirety, accounted for less than two percent of all ESAP money allocated in the districts we reviewed. Many districts with very large grants and ostensibly comprehensive programs, such as Jackson, Mississippi; Nashville, Tennessee; Charleston, South Carolina; and Dougherty County, Georgia requested nothing for student programs.

E. Failure to fund comprehensive projects

ESAP has been administered on the principle that grants should be made to a large number of districts as quickly as possible. In implementing this principle, the Title IV Office has abandoned the mandate of the Regulations, under which the decision whether and to what extent a district should be funded was to have been based on the promise the district's proposal showed of dealing comprehensively and effectively with special problems of desegregation.

The approved applications we reviewed supply evidence that the competitive approach was not followed. First, some proposals which did include a comprehensive treatment of desegregation, including student and community projects, were severely cut, apparently because the districts were not large enough to warrant grants of the size needed. On the other hand, a large number of very small grants were made—grants too small to deal comprehensively with the problems in the district.

For example, Beggs, Oklahoma proposed a series of biracial workshops for parents to discuss and attempt to resolve personal or emotional problems that may be occasioned by the integration of the schools. The $85,570 requested was reduced to $12,672, and the district abandoned its parent workshop program in favor of hiring a counselor and buying some instructional supplies.

Okmulgee, Oklahoma developed a $250,000 plan which included financial assistance to a biracial human relations committee and a home visitation program. Almost 80 percent of the request was denied, and the district struck from its proposal everything but teacher aides and a school bus.

Demopolis, Alabama applied for $177,754 to institute a comprehensive plan which included a community liaison staff, special pupil personnel services, teacher preparation programs, and student tutorial programs. The school district was granted only $27,664. Of this amount, $17,214 was allowed for an administrator with supporting clerical help, travel expenses and supplies, to "effectively administer the program"—a program which had been almost totally eliminated by the Office of Education.

By October 30, a total of 88 school districts had been awarded ESAP grants of less than $10,000 including several of less than $2000. For example, Maury, Tennessee, with a request for $16,500 was awarded $1500 which paid part of the cost of one bus. Hawkinsville, Georgia requested $64,000 but was granted only $5000, which will be used to purchase supplies for industrial arts and vocational education classes. Numerous comparable examples could be cited. An unfortunate result of this approach is that there will be few, if any, models of the use of special federal funds to deal comprehensively with desegregation problems. Such models could have provided valuable lessons concerning the va-

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lidity of the basic assumption of the Emergency School Assistance Program.

F. Conclusion

The grant-making process under ESAP apparently operated on the assumption that a general financial emergency existed in desegregating school districts, an emergency which could best be met by the distribution of some federal money to as many of these districts as could be reached in the shortest possible time. The administrators left it largely to school officials to define the nature of the desegregation emergencies in their districts; little in the way of direction or evaluation was provided by the Office of Education.

This administrative policy produced predictable results. In some instances, the projects funded were based on racist assumptions—that black children have special defects of character, that they are specially suited to training for menial jobs, that they have poor hygiene. Districts not even engaged in terminal desegregation were funded. The community participation provisions of the Regulations were weakly enforced. Most noticeably, large amounts of federal "desegregation money" was spent on projects which had little or nothing to do with desegregation. School officials asked for, and were given, more of the same—more hardware, more textbooks, more school supplies and more teachers and teacher aides.

The funding of racist projects and clearly ineligible districts could be remedied by minimal care in processing and evaluating grant applications, but the general demand for money for projects largely unrelated to desegregation might suggest that the whole program was ill-founded, that there never was any desegregation "emergency" requiring federal financial assistance. We do not believe this to be the case. Racial tension is high in many desegregating districts, and the mixing of black and white students in school buildings has often failed to produce a genuine integrated educational experience.

What is needed is precisely what many community leaders recommended to congressional committees and HEW officials last summer—human programs, designed to involve the students and the community directly in the process of working out the problems of desegregation in the schools. By and large, these are not the kinds of programs school officials will spontaneously propose when federal money is made available. School administrators in the South, just as in the rest of the country, traditionally oppose the active involvement of parents, students and community people in the running of the schools.

One solution is to establish student and community projects as a high priority in grant programs like ESAP, and then to enforce that priority—if necessary, by rejecting nine-tenths of the grant proposals presented. A second solution is to take seriously the notion of funding programs developed and administered by community groups.

FOOTNOTES

[1] Regs. 181.3(a)(1) and 181.7(b)(1).

[2] Regs. 181.7(b)(1)–(2).

[3] Examples of such uses were found in the following Georgia applications: Berrien County, Lee County, Madison County, Monroe County, Oconee County, Oglethorpe County, Toombs County, Wheeler County.

CHAPTER III. CIVIL RIGHTS COMPLIANCE IN DISTRICTS RECEIVING ESAP GRANTS

A. Introduction

Our monitors visited 467 southern school districts which were desegregating their systems this fall under HEW or court-ordered plans, and compiled reports describing the extent to which each district was following its desegregation plan, the extent to which racially discriminatory practices persisted in the schools after integration, and other data relevant to an evaluation of the desegration process.[1] Of the monitored districts, 295 had received ESAP grants by October 30 of this year. In this chapter we summarize our monitors' findings from those 295 districts of practices which, under the terms of the ESAP Regulations or under the government's own interpretation of Title VI of the 1964 Civil Rights Act, render them ineligible for ESAP grants. Our report is not a comprehensive description of racially discriminatory practices in districts receiving ESAP grants. We have confined ourselves to noting practices clearly illegal under the standards the government purports to apply.[2]

Our findings about these districts are startling. In 179 of the 295 districts monitored, we found clear evidence of practices which should render the districts ineligible. In 87 districts, indications of illegal practices were found which raised serious questions about their eligibility. In only 29 districts—less than 10 percent—did we find no such evidence.

B. The results

1. Segregation and Discrimination in Pupil Assignment

In 12 districts with ESAP grants, our monitors found clear evidence that the student assignment plan ordered by the court or approved by HEW had not been followed. In another four districts, we found evidence of desegregation plan violations sufficient to warrant further investigation.[3] The most common form of plan violation occurred where geographic zoning plans resulted in both majority black schools and majority white schools in the same district. White students in the majority black schools have been allowed to transfer out of these "neighborhood" schools, often with transportation provided at public expense, resulting in resegregation. In other instances, formerly black schools closed under desegregation plans have been reopened and the students who formerly attended them have been allowed to transfer back—a version of freedom of choice which results in resegregation, since whites never choose to attend these schools and none are assigned to them. As examples of this kind of violation:

In McCormick, South Carolina, recipient of a $47,696 ESAP grant, whites have been allowed to transfer out of two formerly black elementary schools, thus completely resegregating those schools.

In Demopolis, Alabama, recipient of $27,664, white students assigned to formerly black elementary schools were allowed to attend white schools outside their zones, and to ride the school buses to school. The school officials have informed the parents of these students that they are violating the court order, but they have stated that students may continue to attend the schools of their choice until they are removed "by action initiated and implemented by the Federal Courts."

In St. Johns County, Florida, recipient of a grant of $40,725, the same pattern is followed of allowing white students to transfer from majority black to majority white schools, with bus transportation provided at public expense. Ironically, a strong desegregation plan originally proposed for St. Johns County was rejected because it required too much busing.

In Vance County, North Carolina, recipient of $86,955, a formerly white school became 75 percent black. Three weeks after school opened, a formerly black school closed by the plan was reopened, and blacks were allowed to transfer to it. A closed school, formerly white, was also reopened and white students transfered to it.

2. Segregation Within Integrated Schools

Our monitors found 94 districts receiving ESAP grants which clearly engaged in illegal segregation of classrooms or facilities within schools. In another 18 districts, there are strong indications of such practices. The most widespread form of in-school segregation is the assignment of black and white children into separate classrooms. In many cases, this separation is carried out explicitly on the basis of race. Thus:

In South Pike, Mississippi, recipient of a $21,300 ESAP grant, both black and white children are in grades 7–12 at the former Eva Gordon School. However, the classrooms in those grades are, with few exceptions, either all-black or all-white.

In Pelham, Georgia, recipient of a $15,500 ESAP grant, the "special education" class is divided so that the white girls are in one room, and the white boys and all the black students are in another. In other instances, when their parents complained white children were allowed to transfer from integrated classes to all-white classes taught by white teachers.

In Troy, Alabama, recipient of a $28,300 ESAP grant, the court ordered the formerly black and formerly white high schools merged. The school district "complied" by renaming the black school Henderson High School, South Campus (Henderson is the name of the white school), firing the black principal and replacing him with a white, and leaving the black students there. Indeed, fewer black students now attend the white high school than did previously under freedom of choice.

In most instances, however, classroom segregation has been achieved through testing children and separating them into different "tracks" in different classrooms. Generally the upper tracks are all-white or nearly all-white, while the lower tracks are nearly all-black; typically, black teachers are assigned to the lower tracks and white teachers to the upper tracks. There can be no question about the illegality of ESAP grants to districts engaging in this common practice, for the Regulations explicitly bar all practices "including testing" which "result in" the isolation of black or white children.[4]

Troy, Alabama, already mentioned, provides a classic illustration of tracking. Troy Junior High, grades 5–8, is almost totally racially segregated between class sections, through the use of a new highly structured track system, not used before desegregation, which divides students into Advanced Academic, Vocational, and Special Education tracks. Other examples from the dozens of cases of segregation through testing are:

McCormick, South Carolina, mentioned above, introduced extensive testing last spring, with the testing reportedly paid for by federal Title I funds. As a result, one of newly integrated elementary schools contains eight totally black classrooms. No black teachers are teaching white students. It is reported that at the beginning of the year, there were "Negro only" signs on some classroom doors, and black teachers were given class roll books labeled "all-Negro." The district's ESAP grant is for a classroom for "special education," i.e., a lower track class likely to be all-black.

England, Arkansas, recipient of an $18,100 ESAP grant, also introduced a new testing program last year on the eve of integration and, as a result, now has virtually all-black lower track classes to which most of the black teachers have been assigned.

Union City, Tennessee, recipient of a $12,500 ESAP grant, tested students into fast, middle and slow tracks. Only one black student in the whole system is in the fast track, and several slow track classes have only one white student each.

Another device used to accomplish segregated education within a school is double sessions. Thus in Seminole County, Florida, with a grant of $80,000 the plan called for a desegregated high school. However, officials arranged double sessions according to where students live, so that one shift is disproportionately white and the other disproportionately black.

In other districts, while black and white children sit in the same classroom, they are

Footnotes at end of article.

assigned seats according to race. Among these districts are Plum Bayou, Arkansas, recipient of a $16,300 ESAP grant, and Jones County, Mississippi, $35,500. In Carthage, Texas, recipient of $47,400, white and black students are separated within a classroom by blackboards placed down the middle of the room.

In a few schools, segregation is maintained outside the classroom. Thus in Fitzgerald, Georgia, recipient of $19,090 in ESAP money, black and white girls in at least one physical education class are assigned to separate showers. Similarly in Jefferson, Texas, a $33,500 ESAP recipient, junior high school students dress for physical education class in racially segregated dressing rooms. Alexander City, Alabama, $33,824, has segregated its recreation areas in two separate and unequal facilities at different schools.

3. Segregated Transportation

Our monitors found 47 clear and 10 questionable instances of segregated or discriminatory school bus operations in ESAP-assisted districts. This total does not include instances in which residential segregation produced all-black or all-white buses.

The most common phenomenon is simply duplicate bus routes in which buses driven by black and white drivers follow the same route, picking up black and white students respectively. Among the numerous ESAP-assisted districts following this practice are Eudora, Arkansas, $20,431, and Monroe County, Alabama, $100,268. In Monroe County, Georgia, recipient of $35,220 in ESAP money, the superintendent admitted the buses are segregated and said this is done because bus drivers are not qualified to handle difficulties which might arise on integrated buses. In other districts, for example, Calhoun County, Georgia, recipient of $24,400 ESAP grant, the classic Jim Crow pattern of segregated seating is followed.

4. Racially Identifiable Faculties

The ESAP Regulations require an assurance from each applicant that it will so assign its faculty and other staff who work with students that the ratio of black to white faculty and staff in each school will be substantially the same in each school in the system.[5] This rule is generally applied in school desegregation cases by courts in the Fourth and Fifth Circuits, which cover most of the Deep South; it has been approved by the Supreme Court; and it was adopted by President Nixon as policy for his Administration in his March 24, 1970 statement on school desegregation.[6]

Our monitors found at least 62 school districts in which the percentage of black faculty varied in excess of 15 percent from one school to another. White teachers tend to be assigned to majority white schools, formerly white schools, and higher grade level schools in greater numbers. Examples are highly repetitive, but a few representative cases are:

Nansemond County, Virginia, with an $80,400 ESAP grant, has a 58 percent white faculty at the majority white high school, a 63 percent black faculty at the black high school, and an 86 percent black faculty at a majority black elementary school.

Decatur County, Georgia, with an $80,000 grant, has three schools with all-black student bodies under its court order; these schools' faculties are 70, 73 and 100 percent black respectively, while the remaining nine majority white schools all have majority white faculties.

West Orange-Cove, Texas, with a grant of $49,080, has an overall black faculty ratio of 18 percent, but only three of 13 schools are close to that ratio. Five have no black teachers at all; in one, over half the teachers are black, and two have 40 percent black faculties.

Footnotes at end of article.

5. Discrimination Against Black Teachers and Staff

The ESAP Regulations clearly prohibit racial discrimination in the hiring, firing, promotion or demotion of teachers, principals and other school staff who work with students.[7] Our monitors found that black teachers, principals, coaches and other staff are being fired or demoted in massive numbers in districts implementing desegregation plans. Especially in smaller districts, desegregation often means that fewer schools are operated; this invariably means that there are fewer principals and head coach positions, and it often means a general reduction of faculty size as well. Typically, where a black and white school have been merged, the black principal becomes the white principal's assistant in the integrated school, often with few or only menial responsibilities; the black coaches become assistant coaches; and if teachers are released, they are mostly black teachers.

In analyzing our monitors' reports, we have counted as clear instances of discrimination only cases in which blacks were demoted to serve under whites with lesser qualifications, or in which such disproportionately large numbers of blacks were demoted or dismissed as to indicate a pattern of discrimination. In other cases, where our monitors could not obtain evidence of the qualifications of those dismissed or demoted, and where only a few individuals were affected, we have listed the district as "questionable."

Applying these criteria, we found 98 ESAP districts with clear violations, and 123 districts with questionable cases of dismissals or demotions of black teachers—a total of 221 out of the 295 ESAP districts monitored. We believe that even these remarkable figures understate the extent of the problem of discrimination against black teachers and staff, because our monitors did not systematically gather data on discrimination in the *hiring* of blacks. However, informal reports we have received indicate that discrimination in hiring is also widespread.

A few representative examples of discriminatory dismissal or demotion are:

In Gadsden County, Florida, recipient of a grant of $133,300, most of the untenured black teachers were dropped. Many new white and no new black teachers were hired. A black elementary school principal was demoted to assistant principal of an integrated school under a white with no previous experience as a principal.

In Miller County, Georgia, recipient of a grant of $11,000, a black man with 22 years experience as a principal in a black high school, a masters degree in administration, and post-graduate work in guidance and counseling has been made "co-principal" of an integrated high school, where his chief functions are to hand out free lunch passes and patrol the halls. A white with lesser credentials has been appointed principal. The white had been a principal before but had returned to classroom teaching a few years ago, when a few black students came to the white school under freedom of choice, reportedly because he was opposed to integration. In the same district, the black coach and band director were both demoted.

In Sumter County, Georgia, $30,350 grant, both black band teachers were fired. The black principal, with 12 years experience in his job was made "administrative assistant to the superintendent," with an office in the jailhouse unit of the courthouse. His wife, formerly curriculum director at the black high school, shares his new office with him. Their duties are limited to "visiting" the schools in the district.

In Horry County, South Carolina, $180,145 grant, one black principal was made director of vocational education, six were made assistant principals, and two were made classroom teachers.

In Choctaw County, Alabama, $69,916 grant, the contracts of 19 black teachers were not renewed, and the two black band directors and all three black coaches were demoted and their salaries were reduced.

In Shelbyville, Texas, $17,200 grant, some of the black teachers assigned to formerly white schools were made assistants to white teachers, and were not given their own homerooms. One of the black principals was retired and the other was made a classroom teacher.

6. Aid to Segregation Academies

In recent years, large numbers of all-white private schools, many of them small, underfinanced and with inadequate facilities, have been established in the South as alternatives to desegregated public schools. To deal with the problem of aid and support to these "segregation academies" from public school systems, the ESAP Regulations require each applicant to give assurances that it has not transfered goods or services to any private school which "practices discrimination on the basis of race" with the purpose of encouraging or supporting the private school as an alternative for desegregated public schools. The Regulations further require that ESAP-assisted districts will not in the future transfer goods or services for any purpose to private schools which discriminate on the basis of race.[8]

Our monitors had difficulty obtaining information about "segregation academies" generally, and about public school assistance to them in particular. In many cases these facts are known at first hand only by people with strong motivations to conceal them. Nevertheless, we found 13 clear cases of financial support of private schools by public school systems and 39 cases in which there are indications of such support. Aid generally took the form of sale of public school buildings for less than value, and the loan or gift of textbooks, school equipment, buses, or bus service.

It was still more difficult to determine whether the schools practiced discrimination on the basis of race in the narrow sense that they would refuse admission to a qualified black applicant who was able to pay the tuition. Few black parents in the South can afford private school tuition, and even fewer would wish to send their children to schools of the "segregation academy" type. However, the Internal Revenue Service recently ruled that in order to receive or maintain tax exempt status, private schools must publish in a local newspaper a statement of open admissions policy. Our monitors generally asked whether such a statement had been published by the private schools in the districts they visited. With respect to 11 of the 13, it was reported that no such statement had been published. The monitors could not obtain the information on the other two.

We take the position, however, that in determining whether a private school is "discriminating" within the meaning of the Regulations, it is irrevelant whether a private school has a formal "open admissions" policy. In our view, the Regulations forbid grants to public school systems which give aid or support to private schools established with the purpose, and having the effect, of providing alternative schooling for whites attempting to avoid the impact of a constitutionally required plan of school desegregation. As a rough indicator of whether a private school falls within this category, we have examined the date of its establishment and the makeup of its student body. If the school was established at about the time public school desegregation came to its area, and its student body is all-white, we have identified it as a "segregation academy."

Among the examples of public assistance to segregation academies are:

In Lauderdale County, Tennessee, recipient of a $65,000 grant, a relatively new black public school was closed in 1969, and the building has since been sold at "token cost" to the operators of a private school.

In Thomas County, Georgia, recipient of a $36,000 grant, the school board leased a public school building to the Thomasville City school district, itself the recipient of a $69,000 ESAP grant, which in turn leased it to Meigs Academy for one dollar a year.

In several Mississippi districts receiving ESAP, Claiborne, Jefferson, Scott and Smith Counties, school officials have provided textbooks to private schools, apparently at the direction of the State Department of Education. A similar incident was reported by the press in Jackson, Mississippi, shortly after that district received its $1.3 million ESAP grant; state and local officials admitted that textbooks had been loaned to the private academies, but justified it on the ground that the books were owned by the State Department of Education, and the ESAP Regulations applied only to aid by local school systems.

In Hinds County, Mississippi, recipient of a $190,000 grant, public school buses with markings from several Mississippi districts, including Hinds County and Jackson, have been observed transporting children to private schools.

C. Conclusion

A large proportion of the ESAP-funded districts that we monitored are engaged in discriminatory practices specifically prohibited by the Regulations. In most instances, these practices also violate Title VI, and should bar all federal financial assistance to those districts.

In several reports, the use of ESAP money to subsidize school districts engaging in widespread racial discrimination is worse than the familiar failure to enforce Title VI.

First, it amounts to a fraud upon Congress. The Secretary of HEW explicitly promised a Senate committee that Title VI would be strictly enforced in the administration of this program. Secretary Finch's words are worth quoting again:

"We, under no circumstances, will fund districts out of compliance with Title VI—those who fire or demote anyone on the basis of race or with segregated classrooms or other basic things that you mentioned."

Second, making ESAP grants to districts engaged in these discriminatory practices amounts to HEW's acquiescence in fraud perpetrated by local school officials. The ESAP Regulations were carefully drafted to require that each applicant guarantee that it would not engage in the practices prohibited by those Regulations—among them racial discrimination in the hiring, firing, promotion and demotion of staff; the racially imbalanced assignment of staff within the school system; the use of devices, including testing, which lead to racial isolation of children within the school; and aid to private schools which practice racial discrimination. These assurances have been breached by a clear majority of ESAP grant recipients.

Finally, while it is always deplorable for the federal government to subsidize public agencies engaged in racial discrimination, it is worse when funds designed to facilitate the process of school desegregation are granted to districts openly and flagrantly pursuing racist policies which insult and degrade black children.

Recommendations

In this report, we have documented widespread misuse ESAP funds and discrimination against black children in ESAP recipient districts. This is unconscionable in any federal program; it is particularly so in a program designed to help bring an end to discrimination and promote equality of educational opportunity.

It is imperative that responsible federal officials act without delay to retrieve what remains of ESAP. It is still possible to correct some of the mistakes because no ESAP-assisted district has received more than 25 percent of its grant.

Therefore, we recommend:

That the Secretary of HEW immediately conduct civil rights compliance reviews and terminate ESAP funds to districts which are engaging in discriminatory practices. Moreover, efforts should be made to recover ESAP money already given to these districts;

That HEW undertake now a detailed review of all ESAP grant applications which have been approved. In cases where the grants are not being used to contribute to the desegregation process, funding should be discontinued;

That priority be given to the distribution of the ESAP funds reserved for private groups.

FOOTNOTES

[1] Our monitoring effort is described in more detail in Appendix A.

[2] We have not included the extensive reports received of other racially discriminatory practices not explicitly prohibited under government interpretation of Title VI or under the ESAP Regulations, even though we believe that these practices constitute violations of Title VI, and hence should rule out all federal financial assistance for these districts. Among these practices are segregation of students by sex, when initiated with desegregation; the abandonment of extracurricular activities, especially dances, student clubs, and student government activities, when the schools are integrated; the use in integrated schools of racially insulting symbols, such as Confederate flags, nicknames such as "Rebels" for school teams, the playing of "Dixie" by school bands at sporting events; discriminatory treatment of black students in school discipline; and the consistent use of abusive racial epithets by teachers and administrators. We do not mean to downgrade the importance of these abuses by omitting them from this study; indeed they have been the source of much of the anger and frustration felt by black students and parents in "integrated" schools this year. We plan a full exposition of these problems and other matters in the complete report of our monitors effort.

[3] A list of the ESAP districts in which violations were found, under each of the categories we have considered, is included in Appendix C–I.

[4] Regs. 181.6(a)(4)(G).

[5] Regs. 181.6(a)(4)(F).

[6] * * *

[7] Regs. 181.6(a)(4)(E).

[8] Regs. 181.6(a)(4)(D).

APPENDIX A.—A DESCRIPTION OF THE SCHOOL DESEGREGATION MONITORING PROJECT

With the assistance of students from Bishop College (Dallas, Texas), Fisk University (Nashville, Tennessee), and Virginia State University (Petersburg, Virginia) and staff of the Urban Coalition, the organizations responsible for this report monitored some 467 school districts in eleven southern states (as part of a larger study of the desegregation process in the South this fall). We attempted to monitor all the districts undergoing terminal desegregation during 1970–71 school year, either under voluntary plans approved by HEW or under court orders entered in cases instituted by the United States. This excluded many districts eligible for ESAP grants: districts with 1968–69 or 1969–70 terminal desegregation plans, and districts with 1970–71 terminal plans imposed by court order in cases with private plaintiffs. We did monitor 79 districts in Alabama which are under court order in a case brought by private plaintiffs, and in which the United States has intervened as co-plaintiff. The 467 districts monitored include 295 of the 722 which had received ESAP grants by October 30, 1970.

The monitoring effort was largely carried out between September 18 and September 27, 1970, under the direction of staff employees of the organizations which have prepared this report. The largest group of monitors were volunteer lawyers, working under the auspices of the Lawyers' Committee for Civil Rights Under Law. Other monitors included the staffs of the sponsoring organizations, college students, and in some instances citizens resident in the districts in question who have been involved with school issues in that district. All monitors used a uniform information form, drawn up by the sponsoring organizations, to record the data they collected. Monitoring activities in each state were coordinated by an individual with long experience both in school desegregation issues and in working with southern communities. Each state coordinator conducted a training session for the monitors working within his state before they went into the field.

Great stress was placed upon techniques of objective data collection, with emphasis on interviewing persons with different points of view in the community, blacks and whites, school administrators, principals, teachers, parents and students. In each case, monitors were instructed to seek an appointment with the school superintendent or his representative, and to attempt to obtain access to official school records of student and faculty assignment and similar hard data. In reporting information, monitors were instructed to distinguish between rumors and "what everybody knows" on the one hand, and eyewitness reports and data from official records on the other.

We gathered the facts as they were in late September; our resources have not permitted updating of our information. Thus in some districts, conditions and practices reported here may have been corrected by the time this report appears. On the other hand, illegal practices may have arisen in other districts since our monitors visited them.

In analyzing reports, we have listed as "clear violations" of applicable legal standards only cases in which facts related to our monitors, based on the first-hand knowledge of the relator, established illegality. Where our monitors obtained only second-hand reports of facts supporting a charge of a violation, or where the facts related suggest but do not compel an interference of racial discrimination, we have listed the case as questionable.

APPENDIX B.—LIST OF 368 APPROVED ESAP APPLICATIONS REVIEWED

Alabama

Alexander City Board of Education.
Andalusia City.
Auburn City Schools.
Baldwin County Board of Education.
Brewton City Schools.
Butler County Board of Education.
Clay County Board of Education.
Conecuh County Board of Education.
Dale County Board of Education.
Decatur City Schools.
Demopolis City Schools.
Dothan City Board of Education.
Elba City Board of Education.
Eufaula City Board of Education.
Fairfield City Board of Education.
Lamar County Board of Education.
Lanette City Schools.
Lee County Board of Education.
Limestone County Board of Education.
Monroe County Board of Education.
Randolph County Board of Education.
Russell County Board of Education.
St. Clair County Board of Education.
Sylacauga City Board of Education.
Troy City Board of Education.

Arkansas

Ashdown School District No. 51.
Camden School District No. 35.
Crossett School District No. 52.
Eudora Special School District.
Monticello School District No. 18.
Newport Special School District.
Prescott School District No. 14.
Saratoga School District No. 11.

Florida

Alachua County School Board.
Bradford County School Board.
The School Board of Brevard County.
Calhoun County School Board.
Collier County School Board.
Columbia County School Board.
Dade County Public Schools.
Duval County School Board.
Flagler County School Board.
Gadsden County Public School System.
Glades County School Board.
Gulf County School Board.
Hamilton School Board.
District School Board of Hendry County.
District School Board of Hernando County.
Highlands County School Board.
Hillsborough County Board of Public Ins.
Indian River County School Board.
Jackson County School Board.
Jefferson County School Board.
Lafayette County School Board.
District School Board of Lake County.
District School Board of Lee County.
District School Board of Madison County.
Martin County Board of Public Ins.
Nassau County Board of Public Ins.
Board of Public Ins. of West Palm Beach County.
The School Board of Pinellas County.
District School Board of Putnam County.
Seminole County District School Board.
St. Johns County School Board.
Sumter County School Board.
Suwannee County School Board.
Taylor County School Board.
Walton County BPI.
Washington County School District.

Georgia

Appling County Board of Education.
Atkinson County Board of Education.
Baker County Board of Education.
Baldwin County Board of Education.
Barrow County Board of Education.
Ben Hill County Board of Education.
Berrien County Schools.
Bibb County Board of Education.
Bleckley County Board of Education.
Brooks County Schools.
Bryan County Board of Education.
Buford City System.
Burke County Board of Education.
Butts County School System.
Calhoun County Board of Education.
Camden County Board of Education.
Candler County Board of Education.
Carroll County Board of Education.
Carrollton County Board of Education.
Cartersville School Board.
Clarke County School District.
Clay County Board of Education.
Clinch County Board of Education.
Cochran City Schools.
Coffee County Board of Education.
Columbia County Board of Education.
Cook County Board of Education.
Coweta County School System.
Crawford County Board of Education.
Crisp County School System.
Decatur County Board of Education.
City Schools of Decatur.
DeKalb County School System.
Dodge County Board of Education.
Dooly County Board of Education.
Douglas County Board of Education.
Dougherty County School System.
Dublin City Board of Education.
Early County Board of Education.
Echols County Board of Education.
Effingham County Board of Education.
Fayette County Board of Education.
Fitzgerald City Board of Educataion.
Franklin County Board of Education.
Gainsville City Board of Education.
Glynn County Board of Education.
Grady County Board of Education.
Griffin-Spalding County Board of Education.
Hall County Board of Education.
Haralson County Board of Education.
Hart County Board of Education.
Hawkinsville City School System.
Heard County Board of Education.
Henry County Board of Education.
Hogansville County Schools.
Houston County Schools.
Jasper County Schools.
Jeff Davis County Schools.
Jefferson County Schools.
Jones County Schools.
LaGrange Public Schools.
Lamar County Board of Education.
Lanier County Board of Education.
Laurens County School System.
Lee County School System.
Liberty County School System.
Lincoln County Board of Education.
Lowndes County Board of Education.
Macon County Board of Education.
Madison County Board of Education.
Marietta City Schools.
McDuffie County Board of Education.
McIntosh County Board of Education.
Meriwether County Board of Education.
Miller County Board of Education.
Monroe County Board of Education.
Montgomery County Board of Education.
Morgan County Board of Education.
Newton County Board of Education.
Oconee County Board of Education.
Oglethorpe County Board of Education.
Peach County Board of Education.
Pelham Board of Education.
Pierce County Board of Education.
Pike County Board of Education.
Polk County School District.
Quitman County Board of Education.
Randolph County Board of Education.
Rome Board of Education.
Screven County Board of Education.
Stephens County Board of Education.
Stewart County Board of Education.
Sumter County Board of Education.
Talbot County Board of Education.
Taliaferro County Board of Education.
Tift County Board of Education.
Toombs County Board of Education.
Treutlen County Board of Education.
Turner County Board of Education.
Twiggs County Board of Education.
Walker County Board of Education.
Vidalia City Board of Education.
Walton County Board of Education.
Warren County School System.
Washington County Board of Education.
Waycross Public Schools.
Wayne County Board of Education.
West Point Public Schools.
Wheeler County Board of Education.
Wilcox County Board of Education.
Wilkes County Board of Education.
Wilkinson County Board of Education.
Winder City Board of Education.

Kentucky

Jefferson County Public Schools.
Paducah Ind. School District.

Maryland

Prince Georges County Public Schools.

Mississippi

Amite County Schools.
Amory Public Schools.
Attala County School District.
Baldwin Separate School District.
Bay St. Louis Separate School District.
Benton County Schools.
Bolivar County School District No. 1.
Brookhaven Municipal Separate School District.
Choctaw County School District.
Claiborne County Schools.
Clay County Board of Education.
Copiah County School District.
Covington County Schools.
DeSoto County Schools.
Forest Separate School District.
Franklin County Board of Education.
Greene County Schools.
Greenwood Municipal Separate School District.
Hattiesburg Public Schools.
Hinds County Public Schools.
Itawamba County Schools.
Jackson Municipal Separate School District.
Jefferson County Schools.
Kosciusko Municipal Separate School District.
Lafayette County Board of Education.
Laurel Municipal Separate School District.
Leake County School Board.
Lee County School District.
Leflore County School District.
Louisville Municipal, ISD.
Lumberton Line Consolidated School District.
Madison County Schools.
Marion County Schools.
Marshall County Schools.
McComb Municipal Separate School District.
Monroe County Schools.
Montgomery County School System.
New Albany Municipal Separate School District.
Newton County Unit.
Newton Special Municipal Separate School District.
North Pike Consolidated School District.
Noxubee County Schools.
Ocean Springs Municipal Separate School District.
Oktibbeha County Schools.
Pascagoula Municipal Separate School District.
Pass Christian School District.
Poplarville Special Municipal Separate School District.
Prentiss County Schools.
Rankin County Schools.
Richton Municipal Separate School District.
Scott County Unit.
Smith County Schools.
Starkville Municipal Separate School District.
South Pike County Consolidated School District.
South Tippah Consolidated School District.
Tupelo Municipal Separate School District.
Union Municipal Separate School District.
Water Valley Line Consolidated School District.
Walthall County School System.
Webster County School District.
Winona Municipal Separate School District.
Yazoo City Municipal Separate School District.
Greenville Municipal Separate School District.

North Carolina

Anson County.
Camden County.
Caswell County.
Clinton City.
Craven County.
Durham County.
Elm City.
Greene County.
Greenville City.
Hoke County.
Iredell County.
Johnston County.
Kings Mountain City.
Lexington City.
Martin County.
Monroe City.
Person County.
Robeson County.
Rockingham County.
Sampson County.
Shelby City.
Stanly County.
Thomasville Board of Education.
Wayne County.
Wilson County.

Oklahoma

Beggs Public Schools.
Chickasha Public Schools.
Gutherie Independent School District No. 19.
McAlester Public Schools.
Muskogee City
Okmulgee Public Schools.

South Carolina

Abbeville County No. 60.
Aiken County (Consolidated) School District.
Allendale County No. 1.
Anderson County No. 1.
Bamburg School District No. 1.
Berkeley County School District.
Charleston County
Darlington County.
Dillon School District No. 2.
Fairfield County.
Florence County No. 1.
Florence County No. 2.
Florence County No. 5.
Greenwood School District No. 50.
Greenwood County No. 52.
Hampton North No. 1.
Hampton County No. 2.
Horry County.
Kershaw County.
Lancaster County.
Lee County.
Marion County No. 3.
Newberry County.
Oconee County.
Orangeburg County No. 4.
Orangeburg County No. 5.
Orangeburg County No. 6.
Orangeburg County No. 7.
Richland County No. 2.
Union County.
York County No. 4.

Tennessee

Alamo City.
Bells City.
Chester County.
Cleveland City.
Covington City.
Gibson County.
Hardeman County.
Henderson County.
Hickman County.
Humboldt City.
Jackson City.
Lake County.
Lauderdale County.
Metropolitan Public Schools—Nashville (Davidson County).
Lebanon City.
Madison County.
McNairy County.
Maury City.
Milan City.
Murfreesboro City.
Robertson County.
Shelby County.
Tipton County.
Trousdale County.
Union City.
Williamson County.
Wilson County.

Texas

Center ISD.
Cypress-Fairbanks ISD.
Galena Park ISD.
Groesbeck ISD.
Hemphill ISD.
Jasper ISD.
Kaufman ISD.
LaMarque ISD.
Liberty ISD.
Malakoff ISD.
New Diana ISD.
Pittsburg County—Line Consolidated ISD.
Smithville ISD.
Wichita Falls ISD.
West Sabine ISD.

Virginia

Bedford County.
Buckingham County.
Charlotte County.
Glouchester County.
Halifax County.
Isle of Wight County.
Louisa County.
Matthews County.
Nelson County.
Norfolk City.
Northampton Schools.
Powhatan County.
Prince George County.
South Boston City.
Suffolk City.
Westmoreland-Colonial Beach Schools.

APPENDIX C. SCHOOL DISTRICTS RECEIVING ESAP FUNDS THAT ARE VIOLATING THEIR HEW OR COURT ORDERED DESEGREGATION PLAN

Alabama

Clear Violations

Demopolis City.
Troy City.

Questionable Violations

Barbour County.

Florida

Clear Violations

Gadsden County.
Pinellas County.
St. Johns County.

Questionable Violations

Orange County.

North Carolina

Clear Violations

Martin County.
Vance County.

South Carolina

Clear Violations

Fairfield County.
Florence County No. 1.
McCormick County.
Orangeburg County No. 3.
Sumter County No. 17.

Questionable Violations

Lee County.

Tennessee

Questionable Violations

Lauderdale County.

APPENDIX D. DISTRICTS WITH CLASSROOM SEGREGATION

Alabama

Clear Violations

Baldwin County.
Barbour County.
Butler County.
Choctaw County.
Conecuh County.
Coosa County.
Decatur City.
Demopolis City.
Enterprise City.
Eufala City.
Montgomery County.
Monroe County.
Pike County.
Selma City.
Troy City.
Walker County.

Questionable Violations

Elba City.

Arkansas

Clear Violations

Crawfordsville.
England.
Plum Bayou.
Stuttgart.

Questionable Violations

Bright Star.
Helena-W. Helena.
Lonoke.

Florida

Clear Violations

Baker County.
Flagler County.
Jefferson County.
Lake County.
Pinellas County.
Seminole County.
St. Johns County.
Sumter County.

Questionable Violations

Escambia.

Georgia

Clear Violations

Brooks County.
Calhoun County.
Clay County.
Crawford County.
Early County.
Jefferson County.
Johnson County.
Lowndes County.
McDuffie County.
Meriwether County.
Miller County.
Monroe County.
Pelham City.
Putnam County.
Sumter County.
Toombs County.
Treutlen County.
Twiggs County.
Vidalia City.
Warren County.
Washington County.
Waycross City.
Wilkes County.
Wilkinson County.

Questionable Violations

Candler County.
Echols County.
Hancock County.
Screven County.
Stephens County—Toccoa.
Thomas County.
Thomasville City.
Turner County.
Wheeler County.

Mississippi

Clear Violations

Jones County.
Kosciusko MS.
McComb MS.
South Pike.

Questionable Violations

Choctaw County.

Clear Violations

North Carolina

Gates County.
Hertford County.
Martin County.
Richmond County.
Union County.
Vance County.

South Carolina

Clear Violations

Aiken County.
Berkeley County.
Charleston County.
Chester County.
Dillon County No. 2.
Dillon County No. 5.
Edgefield County.
Kershaw County.
Lee County.
Marlboro County.
McCormick County.
Newberry County.
Orangeburg County No. 2.
Orangeburg County No. 5.
Orangeburg County No. 6.
Sumter County No. 17.
Union County.

Tennessee

Clear violations

Gibson County.
Humboldt City.
Lake County.
Lauderdale County.
Union City.

Texas

Clear Violations

Carthage.
Crosby.
Cypress-Fairbanks.
Jefferson.
San Augustine.
Tyler.

Questionable Violations

West Orange-Cove.
Crockett.
Palestine.

Virginia

Clear Violations

Southhampton County.

APPENDIX E. DISTRICTS WITH SEGREGATION IN OTHER FACILITIES

Clear Violations

Alabama: Alexander City.
Georgia: Atkinson County, Fitzgerald City.
North Carolina: Martin County.
South Carolina: Union County.
Tennessee: Gibson County.
Texas: Jefferson.

APPENDIX F.—DISTRICTS WITH SEGREGATED TRANSPORTATION

Alabama

Clear Violations

Baldwin County.
Butler County.
Choctaw County.
Monroe County.
Opelika City.
Tallapoosa County.

Arkansas

Clear Violations

Eudora.

Questionable Violations

Emmet.

Florida

Clear Violations

Jackson County.
Jefferson County.
Pinellas County.
Seminole County.

Questionable Violations

Bradford County.
Sumter County.
Taylor County.

Georgia

Clear Violations

Americus City.
Atkinson County.
Baker County.
Calhoun County.
Clay County.
Dodge County.
Early County.
Echols County.
Grady County.
Johnson County.
McDuffie County.
Miller County.
Mitchell County.
Monroe County.
Pelham City.
Randolph County.
Toombs County.
Treutlen County.
Turner County.
Warren County.
Washington County.
Wilcox County.
Wilkes County.
Wilkinson County.

Questionable Violations

Clinch County.
Fitzgerald City.
Laurens County.
Twiggs County.
Wheeler County.

Mississippi

Clear Violations

Claiborne County.
Jones County.
South Pike.

South Carolina

Clear Violations

Florence County No. 1.
Greenwood County No. 52.
Kershaw County.
Orangeburg County No. 6.
Union County.

Tennessee

Clear Violations

Brownsville—Haywood.

Questionable Violations

Alamo City.

Texas

Clear Violations

Cypress—Fairbanks.
Jefferson.
San Augustine.

APPENDIX G. DISTRICTS WITH RACIALLY IDENTIFIABLE FACULTIES

Alabama

Clear Violations

Brewton City.
Conecuh County.
Monroe County.
Montgomery County.
Opelika City.
Pike County.
Walker County.

Arkansas

Clear Violations

Ashdown.
Camden.
Elaine.
Helena–West Helena.
Holly Grove.
Hot Springs.
Parkin Special.
Stephens.

Florida

Clear Violations

Flagler County.
Jefferson County.

Georgia

Clear Violations

Americus City.
Atkinson County.
Brooks County.
Bryan County.
Charlton County.
Decatur County.
Elbert County.
Fitzgerald City.
Grady County.
Hancock County .
Hart County.
Henry County.
Jefferson County.
Tift County.
Warren County.
Washington County.
Waycross City.
Wilcox County.
Wilkes County.

Mississippi

Clear Violations

DeSoto County.
Jones County.
South Pike.
Tupelo MS.

North Carolina

Clear Violations

Hertford County.
Martin County.
Richmond County.
Rutherford County.
Shelby City.
Weldon City.

Questionable Violations

Lonoke.

Questionable Violations

McIntosh County.

South Carolina

Clear Violations

Aiken County.
Berkeley County.
Edgefield County.
Fairfield County.
Florence County.
Laurens County No. 55.
Marion County No. 3.
Marlboro County.
Pickens County.

Clear Violations

Charleston County.
Lee County.

Tennessee

Clear Violations

Humboldt City.

Texas

Clear Violations

Crosby.
Waskom.
West Orange—Cove.

Virginia

Clear Violations

Nansemond County.
Suffolk City.
Westmoreland County.

APPENDIX H. SCHOOL DISTRICTS WHERE THERE IS DISCRIMINATION AGAINST BLACK TEACHERS AND STAFF

Alabama

Clear Violations

Baldwin County.
Barbour County.
Calhoun County.
Choctaw County.
Conecuh County.
Dale County.
Elba City.
Enterprise City.
Eufaula City.
Gadsden City.
Limestone County.
Monroe County.
Pike County.
Selma City.
Tallapoosa County.
Troy City.
Walker County.

Questionable Violations

Andalusia City.
Anniston City.
Alexander City.
Covington County.
Decatur City.
Demopolis City.
Dothan City.
Lanette City.
Montgomery County.
Opelika City.
Ozark City.
Randolph County.
St. Clair County.
Tuscaloosa City.

Arkansas

Clear Violations

Ashdown.
England.
Forest City.
Helena-West Helena.
Hope.
McGehee.
McNeil.
Stuttgart.
Texarkana.

Questionable Violations

Arkansas City.
Bright Star.
Camden.
Dermott.
Desha-Drew.
Emmet.
Holly Grove.
Hot Springs.
Newport.
Parksdale.
Parkin Special.
Plum Bayou.
Portland.
Saratoga.
Stephens.

Florida

Clear Violations

Baker County.
Columbia County.
Escambia County.
Flagler County.
Gadsden County.
Jackson County.
Jefferson County.
Lake County.
St. Johns County.
Wakulla County.

Questionable Violations

Bradford County.
Hernando County.
Taylor County.
Sumter County.

Georgia

Clear Violations

Coweta County.
Dodge County.
Early County.
Elbert County.
Fitzgerald City.
Johnson County.
Lowndes County.
Miller County.
Mitchell County.
Monroe County.
Putnam County.
Quitman County.
Randolph County.
Sumter County.
Troup County.
Turner County.
Washington County.
Waycross City.
Wilkes County.

Questionable Violations

Appling County.
Baker County.
Butts County.
Calhoun County.
Camden County.
Candler County.
Charlton County.
Clinch County.
Colquitt County.
Cook County.
Crawford County.
Crisp County.
Echols County.
Grady County.
Greene County.
Griffin-Spaulding County.
Hart County.
Jeff Davis County.
Jefferson County.
Jones County.
Laurens County.
Macon County.
Marietta City.
McDuffie County.
McIntosh County.
Meriwether County.
Monroe County.
Newton County.
Peach County.
Pelham City.
Screven County.
Seminole County.
Stephens County—Toccoa City
Telfair County.
Thomas County.
Thomaston City.
Tift County.
Toombs County.
Treutlen County.
Twiggs County.
Warren County.
Wayne County.
Winder City.
Worth County.
Lee County.

North Carolina

Clear Violations

Iredell County.
Martin County.
Richmond County.
Shelby City.
Vance County.

Questionable Violations

Fairmont City.
Gaston County.
Gates County.
Hertford County.
Hyde County.
Robeson County.
Scotland County-Laurinburg.
Union County.

Mississippi

Clear Violations

Jones County.
Kociusko MS.
Laurel MS.
Smith County.

Questionable Violations

Claiborne County.
Newton MS.
McComb MS.
Noxubee County.

South Carolina

Clear Violations

Aiken County.
Barnwell County No. 45.
Charleston County.
Chester County.
Dillon County No. 2.
Florence County No. 5.
Greenville County.
Greenwood County No. 52.
Horry County.
Kershaw County.
Laurens County No. 55.
Marion County No. 4.
McCormick County.
Newberry County.
Pickens County.
Saluda County.
Union County.
York County No. 2.
York County No. 3.

Questionable Violations

Abbeville County.
Anderson County No. 1.
Anderson County No. 2.
Berkeley County.
Dillon County No. 1.
Edgefield County.
Florence County No. 1.
Lee County.
Marlboro County.
Oconee County.
Orangeburg County No. 3.
Orangeburg County No. 4.
Orangeburg County No. 5.
Orangeburg County No. 6.
Orangeburg County No. 8.
Richland County No. 2.
York County No. 1.

Tennessee

Clear Violations

Brownsville-Haywood.
Humboldt City.
Lauderdale County.

Questionable Violations

Chester County.
Gibson County.
Hardeman County.
Lake County.
Maury City.

Texas

Clear Violations

Carthage.
Center.
Crockett.
Cypress-Fairbanks.
Gilmer.
Jefferson.
Marshall.
Shelbyville.
Tyler.
Waskom.
West Orange-Cove.

Questionable Violations

Chapel Hill.
Crosby.
Kilgore.
LaMarque.
Lufkin.
San Augustine.
Texarkana.

Virginia

Clear Violations

Suffolk City.

Questionable Violations

Nansemond County.
Prince George County.
Southampton County.
Westmoreland County.

APPENDIX I. DISTRICTS WITH PUBLIC AID TO SEGREGATION ACADEMIES

Alabama

Clear Violations

Monroe County.
Russell County.
Tallapoosa County.

Arkansas

Questionable Violations

Crawfordsville.

Florida

Clear Violations

Gadsden County.
Jackson County.

Questionable Violations

Jefferson County.

Georgia

Clear Violations

Americus City.

Questionable Violations

Baker County.
Crisp County.
Decatur County.
Dooly County.
Early County.
Greene County.
Hancock County.
Lamar County.
Lee County.
Mitchell County.
Randolph County.
Screven County.
Sumter County.
Thomas County.
Thomasville City.
Tift County.
Wilkes County.
Wilkinson County.

Mississippi

Clear Violations

Claiborne County.
Hinds County.
Jefferson County.
Scott County.
Smith County.

South Carolina

Questionable Violations

Coosa County.
Demopolis City.
Dillon County No. 1.
Dillon County No. 2.
Dillon County No. 3.
Edgefield County.
Fairfield County.
Greenwood County No. 50.
Greenwood County No. 52.
Lee County.
Marlboro County.
McCormick County.
Orangeburg County No. 3.
Orangeburg County No. 5.
Troy City.

Tennessee

Clear Violations

Covington City.
Lauderdale County.

Questionable Violations

Hardeman County.
Robertson County.

Texas

Questionable Violations

Marshall.
Jefferson.

THE OIL IMPORT PROGRAM

Mr. KENNEDY. Mr. President, on December 22, President Nixon issued a proclamation on the oil import program. The proclamation was accompanied by a press release from the Office of Emergency Preparedness stating that the proclamation "increases the current import total by about 100,000 barrels per day." But as Bernard Nossitor's excellent article in the Washington Post makes clear, the new regulations will not now bring in one additional barrel of oil. The administration is attempting to use paper increases in oil imports to combat very real increases in oil prices.

The American people, who are now suffering from the ravages of inflation, should be made aware that nothing the administration has done thus far is likely to have a significant impact on oil prices. I, therefore, request that the Nossitor article, the OEP press release, and the Presidential proclamation be placed in the RECORD.

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

OIL IMPORT PROGRAM

The amendatory proclamation signed by President Nixon today establishes 1971 levels of controlled imports of crude oil, unfinished oil and refined products into petroleum districts I–IV (East of the Rockies) and increases the current import total by about 100,000 barrels per day.

George A. Lincoln, director of the Office of Emergency Preparedness, with the advice of the Oil Policy Committee, recommended to President Nixon these adjustments in the oil import program.

The proclamation authorizes allocations of imports of crude oil from Canada at an average rate of 450,000 barrels per day for 1971 and allows an additional 15 days to bring in oil by pipeline under allocations for 1970 and 1971. The level of imports of crude oil, unfinished oil and finished products from elsewhere will by 960,000 barrels per day, or 50,000 barrels per day above the current maximum level.

It will also permit the Secretary of the Interior to allow the importation of additional Canadian imports, as President Nixon announced on Dec. 4: "I have also directed that companies importing Canadian oil be permitted to use their overseas allocation for the purchase of more crude oil from Canada."

Previous changes in the oil import program include establishment of the new management system by the President last Feb. 20, the shift from a voluntary Canadian quota to a formal quota with some increase in Canadian imports, an increase of the oil import quota by 100,000 barrels per day in 1970, and the further provision of 40,000 barrels per day of No. 2 fuel oil for distribution to independent deep water terminal operators on the East Coast.

Also, the new management system, headed by the director of the Office of Emergency Preparedness with the advice of the Oil Policy Committee, has freed the transportation of oil crossing Canada between points in the United States, has provided for import of additional asphalt, has exempted Canadian natural gas liquids from the Canadian quota and also exempted Western Hemisphere ethane, propane, and butane.

Regulations on handling of crude oil imported for fuel have been relaxed and oil imports from Canada now are permitted to enter by inland waterways other than ocean waterways. Asphalt imports are being freed from restrictions in calendar year 1971. A related matter, not part of the oil import program, is the provision of increased supply as a result of the action announced by the President Dec. 4 which placed Federal Outer Continental Shelf lands under Federal administration for production of oil and gas.

The Presidential Proclamation today eliminates both finished product and crude oil allocations into Districts I-IV and V on the basis of historical considerations. The Secretary of the Interior is given latitude to authorize imports of finished products up to levels he determines to be consonant with the objectives of the proclamation.

The proclamation also eliminates the so-called Brownsville Loop, effective Dec. 31, by permitting Mexican imports to enter by water, as well as by land. The amount of Mexican imports will be determined by the Secretary of the Interior after annual discussions between the Governments of the United States and Mexico. Such imports will be authorized at the rate of 30,000 barrels per day until such discussions take place.

MODIFYING PROCLAMATION NO. 3279, RELATING TO IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS

(By the President of the United States of America)

A PROCLAMATION

The Director of the Office of Emergency Preparedness, with the advice of the Oil Policy Committee, has found that the national security will not be adversely affected by changes in the oil import control program which would

—increase licensed imports into Districts I–IV, including the Canadian component of those imports, approximately 100,000 barrels per day during 1971,

—free importation and allocation in Districts I–IV and District V from historical limitations, and

—authorize Mexican imports to enter, overland or by water, in such amounts and under such circumstances as the Secretary of the Interior prescribes after annual discussions between the Governments of the United States and Mexico.

The Director, with the advice of the Oil Policy Committee, has recommended that Proclamation No. 3279, as amended, be amended to adjust imports in conformity with these findings. He has, with the advice of the Oil Policy Committee, also recommended that the quantity of crude oil, unfinished oils, and finished products that may be imported into Districts I–IV continue to be determined on the basis of 12.2% of the quantity of crude oil and natural gas liquids which the Secretary of the Interior estimates will be produced in those districts, adjusted to reflect other national security determinations, but that, in the interest of better public understanding of the oil import control program, such authorized imports be stated in terms of specific barrels per day.

I agree with the findings and recommendations of the Director and deem it necessary and consistent with the security objectives of Proclamation No. 3279, as amended, to adjust the imports of petroleum and petroleum products, and to improve the administration of the program, as hereinafter provided.

Now, therefore, I, Richard Nixon, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and laws of the United States, including section 232 of the Trade Expansion Act of 1962, do hereby proclaim that, effective as of the date of this Proclamation, Proclamation No. 3279, as amended, is further amended as follows:

1. Paragraph (b) of section 1 is amended to read as follows:

"The Secretary of the Interior may, in his discretion, authorize entries, without allocation or license, of small quantities of crude oil, unfinished oils, or finished products."

2. Paragraph (a) of section 1A is amended to read as follows:

"(a) (1) As used in this section the term 'Canadian imports' means imports from Canada of crude oil which has been produced in Canada and unfinished oils which have been derived from crude oil or natural gas produced in Canada and which have been transported into the United States by overland means or over waterways other than ocean waterways. The provisions of clause (4) of paragraph (a) of section 1 of this proclamation shall have no application to Canadian imports into Districts I–IV during the period March 1, 1970 through December 31, 1971.

"(2) During the period March 1, 1970 through December 31, 1970, Canadian imports into Districts I–IV under allocations which were made pursuant to this section shall not exceed an average of 395,000 barrels per day. However, entries for consumption of crude oil or unfinished oils transported by pipeline may be made until midnight January 15, 1971, under any license authorizing Canadian imports into Districts I–IV for that period.

"(3) During the period January 1, 1971 through December 31, 1971, Canadian imports under allocations made pursuant to this subparagraph (3) into Districts I–IV shall not exceed an average of 450,000 barrels per day. However, entries for consumption of crude oil or unfinished oils transported by pipeline may be made until midnight January 15, 1972 under any license authorizing such imports from Canada for that period. The Secretary shall by regulation provide for allocations of such imports. The regulations shall provide that licenses issued under such allocations shall permit the entry, or withdrawal from warehouses, for consumption of Canadian imports only.

"(4) The Secretary may, within the level prescribed by paragraphs (a) (1) of section 2 of this proclamation permit the importation of additional quantities of Canadian imports."

3. Paragraph (e) of section 1A is amended to read as follows:

"On and after October 1, 1970, natural gas liquids derived solely from Canadian natural gas may be imported into the United States from Canada without allocations or licenses if transported by overland means or over waterways other than ocean waterways. As used in this paragraph the term 'natural gas liquids' means natural gas products and other hydrocarbons, such as ethane, propane, and butanes, or mixtures thereof, recovered from natural gas by means other than refining."

4. Section 1A is amended by adding at the end thereof the following new paragraph:

"(h) After December 31, 1970, the provisions of clause (4) of paragraph (a) of section 1 shall have no application to imports of crude oil, unfinished oils, or finished products from Mexico. After the same date, crude oil produced in Mexico and unfinished oils and finished products produced in Mexico wholly from Mexican crude oil may in Districts I–IV and District V be entered, or withdrawn from warehouses, for consumption without allocations or licenses in such amounts and under such conditions as the Secretary may prescribe, after annual discussions between the Governments of the United States and Mexico. Until the Secretary prescribes the amounts that may enter pursuant to this paragraph, such imports shall not exceed an average of 30,000 barrels per day per calendar year."

5. Subparagraph (1) of paragraph (a) of section 2 is amended to read as follows:

"Except as otherwise provided in this proclamation, the maximum level of imports (exclusive of imports from Canada provided for in paragraph (a) of section 1A), subject to allocation, of crude oil, unfinished oils, and finished products (other than residual fuel oil to be used as fuel) into Districts I–IV for a particular allocation period, shall be an amount equal to the difference between (i) 960,000 barrels per day during that allocation period and (ii) the quantity of crude oil and unfinished oils which may be imported pursuant to paragraph (h) of section 1A of this proclamation during the particular allocation period plus the quantity estimated by the Secretary by which shipments of unfinished oils and finished products (other than residual fuel oil to be used as fuel) from Puerto Rico to Districts I–IV during that allocation period will exceed the quantity (as adjusted by the Secretary as he may determine to be consonant with the objectives of this proclamation) so shipped during a comparable base period in the year 1965. Within this maximum level, imports of unfinished oils and imports of finished products (other than residual fuel oil to be used as fuel) shall not exceed such levels as the Secretary may determine to be consonant with the objectives of this proclamation. In addition to the imports permitted under the first sentence of this paragraph, for the period July 1, 1970 through December 31, 1971, there may be imported into District I, an average of 40,000 barrels per day of No. 2 fuel oil, manufactured in the Western Hemisphere from crude oil produced in the Western Hemisphere, for allocation, under regulations of the Secretary, to persons in the business in District I of selling No. 2 fuel oil who do not have crude oil import allocations into Districts I–IV and who operate deep water terminals in District I or have throughput agreements with deep water terminal operators in District I who do not have crude oil import allocations into Districts I–IV, on a fair and equitable basis, to the extent possible, in relation to such persons' inputs of No. 2 fuel oil to such terminals, having regard to any product import allocations into Districts I–IV made to such persons."

6. The second sentence of paragraph (b) of section 2 is amended to read as follows:

"Within this maximum level, imports of finished products shall not exceed such levels as the Secretary may determine to be consonant with the objectives of this proclamation."

7. The first two sentences of subparagraph (1) of paragraph (b) of section 3 are amended to read as follows:

"With respect to the allocation of imports of crude oil and unfinished oils into Districts I–IV and into District V such regulations shall provide, to the extent possible, for a fair and equitable distribution among persons having refinery capacity in these districts in relation to refinery inputs (excluding inputs of crude oil or unfinished oils imported pursuant to paragraph (e), (f), or (h) of section 1A, and, with respect to refinery inputs in District V, excluding inputs of crude oil or unfinished oils imported pursuant to clause (4) of paragraph (a) of section 1). The Secretary may, by regulation, also provide for the making of allocations of imports of crude oil and unfinished oils into District I–IV and into District V to persons having petrochemical plants in these districts in relation to the outputs of such plants or in relation to inputs of such plants (excluding inputs of crude oil or unfinished oils imported pursuant to paragraph (e), (f), or (h) of section 1A, and, with respect to inputs in District V, excluding inputs of crude oil or unfinished oils imported pursuant to clause (4) of paragraph (a) of section 1)."

8. The last sentence of subparagraph (1) of paragraph (b) of Section 3 is revoked.

9. The second sentence of subparagraph (2) of paragraph (b) of section 3 is amended to read as follows:

"The regulations shall provide also that if, during a period comprising the same number of months as an allocation period and ending three months before the beginning of the allocation period, any such person ships to Districts I–IV or to District V unfinished oils or finished products (other than residual fuel oil to be used as fuel) or sells unfinished oils or finished products (other than residual fuel oil to be used as fuel) which are shipped to Districts I–IV or to District V in excess of the volume of unfinished oils or finished products (other than residual fuel oil to be used as fuel) which he so shipped or which he sold and were so shipped during the year 1965, as adjusted by the Secretary as he may determine to be consonant with the purposes of this proclamation, the person's allocation for the next allocation period shall be reduced by the amount of the excess."

10. The first sentence of subparagraph (4) of paragraph (b) of section 3 is amended to read as follows:

"With respect to the allocation of imports of finished products, other than residual fuel oil to be used as fuel, into Puerto Rico, such regulations shall, to the extent possible, provide (i) for a fair and equitable distribution of imports of such finished products among persons who were importers of such finished products into Puerto Rico during the base period specified by the Secretary pursuant to section 2 of this proclamation, and (ii) for the granting and adjustment of allocations of imports of such finished products into Districts I–IV, District V, and Puerto Rico, in accordance with procedures established pursuant to section 4 of this proclamation."

11. The first sentence of subparagraph (5) of paragraph (b) of section 3 is amended to read as follows:

"With respect to the allocation of imports of residual fuel oil to be used as fuel into Puerto Rico, such regulations shall, to the extent possible, provide for a fair and equitable distribution of imports of residual fuel oil to be used as fuel among persons who were importers of that product into Puerto Rico during the base period specified by the Secretary pursuant to section 2 of this proclamation."

12. The third sentence of subparagraph (5) of paragraph (b) of section 3 is amended to read as follows:

"With respect to the allocation of imports into District I of residual fuel oil to be used as fuel, such regulations shall, to the extent possible, provide for a fair and equitable distribution of imports of residual fuel oil to be used as fuel (i) among persons who are in the business in District I of selling residual fuel oil to be used as fuel and who have had inputs of that product to deepwater terminals located in District I, and (ii) among persons who are in the business in District I of selling residual fuel oil to be used as fuel and have throughout agreements (warehouse agreements) with deepwater terminal operators."

13. Proclamation No. 3279 is further amended by inserting after section 3 the following new section:

"Sec. 3A. Pending the issuance of regulations implementing this proclamation, as amended, the Secretary is authorized to make to any person who held an allocation of imports of crude oil and unfinished oils under this proclamation during the period January 1, 1970 through December 31, 1970, an interim allocation of such imports for the period beginning January 1, 1971. The quantity of an interim allocation of imports other than Canadian oil may not exceed the allocation held in 1970 by such person expressed in the average number of barrels per day for the allocation period multiplied by 31, except that such quantity may be increased to provide for a full tanker load. The quantity of an interim allocation of imports of Canadian oil shall not exceed such person's allocation for such imports for the last half of 1970 expressed in the average number of barrels per day for that period multiplied by 31. The Secretary also is authorized to make to any person who held an allocation of imports of No. 2 fuel oil during the period January 1, 1970 through December 31, 1970 an interim allocation of such imports for the period beginning January 1, 1971. The quantity of such an interim allocation shall not exceed fifty percentum of the allocation held in 1970 by such person. Any allocation subsequently made to any person who receives an interim allocation pursuant to this section, shall be reduced by an amount equal to the interim allocation made pursuant to this section."

In witness whereof, I have hereunto set my hand this twenty-second day of December, in the year of our Lord nineteen hundred seventy, and the Independence of the United States of America the one hundred and ninety fifth.

RICHARD NIXON.

[From the Washington Post, Dec. 23, 1970]

NIXON RAISES OIL IMPORT QUOTAS BY 100,000 BARRELS PER DAY

(By Bernard D. Nossiter)

The White House yesterday announced it was increasing quotas on imported oil by 100,000 barrels a day. Officials who run the import-curbing program later acknowledged, however, that the new regulations would not now bring in one additional barrel.

The new rules, they said, would enlarge oil supplies when and if the present scarcity of tankers is ended.

President Nixon's proclamation would allow the industry to bring in 450,000 barrels daily from Canada, compared to a current limit of 395,000. This is an apparent increase of 55,000 barrels.

But earlier this month, Mr. Nixon issued a complex rule that already is bringing in just about the amount that the new quota limit allows.

As a second step portrayed as increasing supplies, Mr. Nixon raised the quota on oil from Latin America and the Middle East to 960,000 barrels daily. It has been 910,000.

But this, too, is a paper increase. The industry is currently bringing in only 750,000 barrels daily of the cheap foreign oil outside Canada. Because the price of hiring tankers not owned by companies or not under long term charter has gone up sharply, it is now unprofitable to import more low-cost Middle East oil. Thus, Mr. Nixon's 50,000 barrel increase will, for now, simply increase the number of unused import licenses.

White House correspondents were called in for a 30-minute briefing on the President's proclamation by George A. Lincoln, director of the Office of Emergency Preparedness.

Reporters asked Lincoln whether the new rules would bring down the price of oil, recently increased by 25 cents a barrel or about $1.5 billion a year.

Lincoln replied: "It . . . will have a beneficial effect on prices."

Later, Elmer Bennett, Lincoln's special assistant for oil and energy, explained that his boss meant the newest rules would create "ceilings in being which constitute an overhang on the market."

Although the Canadian regulation would not now step up the flow, it "provides a floor" for imports when tanker prices come back down, Bennett said.

COMPLICATED RULE

Canadian imports and tanker prices are now linked because of the complex rule—described by Sen. William Proxmire (D-Wis.) as a "Rube Goldberg in oil"—adopted earlier this month to step up the flow. Ths regulation permits holders of Canadian import licenses to bring in extra Canadian oil with the unused licenses of Arab oil importers.

Thus, when tanker prices come down and all the Middle East licenses are used, the latest regulation would enlarge the Canadian supply.

Similarly, the 50,000-barrel increase in the quota for foreign oil outside of Canada would also have a practical effect when the supply of tankers increases. So, said Bennett, under this portion of the regulation "you have machinery in being."

The "machinery" is a stroke of Mr. Nixon's pen, since he can set any limits or no limits on oil imports at any time.

Bennett also forecast that the rule set up earlier this month will soon stimulate a flow from Canada that would use up all the space in its pipeline to the United States, a flow of 620,000 barrels a day.

Competent industry sources, however, predict that the device will add between 30,000 and 70,000 barrels, a comparative trickle.

LIMITS ARE LIFTED

The administration's real hope of increasing oil supplies to roll back prices lies in the new freedom granted holders of federal leases off Louisiana's shores. They no longer must observe the production limits set by the state and can produce as much as they are able.

But here too there is a question as to whether the increased flow will be enough to bring down prices. In a recent telephone interview, J. M. Menefee, the Louisiana state conservation commissioner, estimated that spare capacity in the federally leased wells is less than 100,000 barrels.

Although many state and federal regulatory officials reflect the industry's view and therefore oppose efforts to reduce oil prices, Menefee is regarded even by industry critics as a reliable source.

The President's proclamation also continues a scheme under which hard-pressed New England can receive 40,000 barrels daily of No. 2 fuel oil for heating from South America. New England governors and senators have been pressing for an end to all government curbs on foreign and domestic oil supplies.

HON. JAMES W. TEW, RECIPIENT OF THE CARL HAYDEN MEMORIAL AWARD

Mr. ALLEN. Mr. President, earlier this month I had the privilege of participating in the presentation of the Carl Hayden Memorial Award which is given annually by the Joint Committee on Printing for outstanding service in the Federal printing program.

The recipient of the award this year is Mr. James W. Tew, who has just recently retired as Deputy Public Printer of the United States after nearly three decades of service to his country at the Government Printing Office.

The award was made at an impressive dinner in the Rayburn Office Building on December 15, with over 200 representatives of the printing and paper industries and printing and publication officers of the Government present, including the Public Printer, Mr. A. N. Spence.

Mr. Tew was presented with a plaque on which is inscribed:

In truly humble acknowledgment of his dedication to public service; in recognition of his devotion to the highest principles of his honorable craft; and in appreciation of his unswerving fidelity to the trusts of highly placed authority in the Government Printing Office, we cite this gentle and talented artisan for engraving a distinguished impression in the annals of our National Government's printing history. We cherish his friendship and point with pride to his shining record of responsible accomplishments.

As the third recipient of the Hayden award, Mr. Tew joins distinguished company. Senator Carl Hayden, after whom the award is named, received the first citation in 1968 in recognition of his many years as chairman of the Joint Committee on Printing, and last year the award was presented to Congressman OMAR BURLESON, who has made many outstanding contributions to the printing program of the Federal Government in his 24 years as a Member of the House of Representatives.

I was happy to have the opportunity to add my congratulations to Mr. Tew at the dinner to those he received from the present chairman of the Joint Committee on Printing, Congressman SAMUEL N. FRIEDEL, and Mr. Tew's fellow Iowan, Congressman FRED SCHWENGEL. The present success which the Federal printing program now enjoys is in no small measure due to the many years of dedicated service and talented efforts of Mr. Tew and to the work of the staff of the Joint Committee, headed by Mr. Jack Haley. As a member of the Joint Committee on Printing, I have often marveled at what can, in truth, be deemed the overnight mechanical miracle of the Government Printing Office in publishing the CONGRESSIONAL RECORD. More than 45,000 copies of the RECORD are printed every night after the Congress has been in session and the vastness of this task is readily seen when it is realized that the RECORD often averages 192 pages per issue, as has been the case in these waning days of the 91st Congress. A legislative day hardly passes that I am not deeply impressed by both the expeditiousness and excellence of the Government Printing Office in publishing the CONGRESSIONAL RECORD.

Yes, Mr. President, December 15 was a golden and well-deserved moment for Mr. Tew. It was a real pleasure to join in paying tribute to him for his outstanding public service, and I wish him continued good health and happiness during his retirement years.

WE SHOULD BRING OUR TROOPS HOME FROM WESTERN EUROPE

Mr. YOUNG of Ohio. Mr. President, more than a quarter of a century following the end of World War II, the United States continues to maintain some 320,000 troops and nearly 290,000 dependents in Western Europe. As early as April 1963 I spoke out urging the withdrawal of a great many of these troops. Since then I have on many occasions in the Senate, in my newsletters, and in speeches in Ohio and elsewhere continued to urge that we reevaluate our military requirements in Europe with a view toward bringing home hundreds of thousands of military personnel with their dependents, as well as some 17,000 American civilian employees living in Western Europe with their dependents.

New realities, which should have been faced in the 1960's, must certainly be recognized in 1970. There is no justification whatever for the United States to maintain in Europe any Armed Forces except liaison officers, some headquarters officers in Belgium and some Air Force and a few thousand other officers and men simply to show the flag. As I urged back in March of this year, our Government should bring home at least 200,000 ground troops from Europe and an equal number of dependents. Should the unlikely event occur that the Soviet Union suddenly resort to war against any European nation, there is no doubt whatsoever that the United States would use nuclear weapons in retaliation. If conventional warfare were to be waged in Europe, the Armed Forces we now maintain in the Federal Republic of Germany, in Belgium and in other European countries would be overwhelmed by the tremendous power of the many divisions of Russian combat troops. The ground forces we have in Europe could at best only serve to delay. Our Nation would be compelled to use our nuclear weapons.

The United States has more than 700 missiles in Polaris submarines, more than 1,400 ICBM's, and some 650 intercontinental bombers. It is this nuclear umbrella that provides the real protection for Europe, not excessive numbers of ground troops.

Since the death of Stalin any threat of violent aggression by an invasion of Soviet troops across the border attacking nations of Western Europe has been dissipated. The Soviet Union at the present time is no longer a "have not" nation. It is engaged in border disputes with Communist China so there is no longer any claim of a monolithic Communist conspiracy to conquer the world. There is no reason whatever for the United States to maintain armed forces in European nations except for a few thousand officers and men to simply show the flag.

Those seven divisions we have been maintaining in Europe at a tremendous cost to our country resulting in an increased balance of payments deficit should not be tolerated by the American people particularly at a time when our draftees are being sent to Southeast Asia. The facts are also that we have an airlift capacity to send an entire division from anywhere in the United States to anywhere in Europe and land them combat ready within 48 hours.

Furthermore, Americans have reason to feel outraged that their President is sending thousands of draftees to fight in Vietnam following basic training of 4 months when seven divisions of highly trained, largely professional career officers and enlisted men are living the good life in West Germany. The officers from captain up to the generals never had it so good. They are living high on the hog with their wives and youngsters, with servants to spare and enjoying their Mercedes automobiles, skiing in Germany and Switzerland, and traveling by air and automobile to the various spas and famed vacation areas in Italy, Spain, and elsewhere. Many of the noncommissioned officers, the backbone of our Army, are living in Western Europe—West Germany, Belgium, and elsewhere—like squawmen with their families. If there were a sudden grave emergency—a sudden invasion on the ground and in the air—one won-

ders if a sergeant with a wife and five or more children would consider their welfare and safety ahead of his Army duties. If we really need to maintain thousands of fighting men in Europe to protect the United States, then the tour of duty should be no longer than 13 months; and no dependents.

We should awaken to the fact that the nations of Western Europe no longer suffer from the economic prostration, military weakness, and political instability which characterized them when their cities and industries were lying in rubble more than a quarter of a century ago. Today West Germany has become an economic superpower. The Federal Republic of Germany is the third wealthiest nation in the world. Many international bankers consider the West German mark as one of the world's strongest currencies, and more sound than the American dollar.

Today more than 220,000 American troops are stationed in West Germany alone. We are spending nearly $15 billion a year to support our NATO forces. In addition, we are paying 70,000 German nationalists one-quarter of a billion dollars of American taxpayers' money each year to provide service for our troops stationed in the West German Republic. This does not include the vast sums spent in Germany by dependents of American forces. There are more than 150,000 American military dependents in West Germany alone, and more than a quarter of a million in all of Western Europe.

The tremendous cost to our taxpayers in maintaining 320,000 men of our Armed Forces in Western Europe and approximately 290,000 dependents and in addition more than 90,000 civilian employees has been increasing year after year. All of this unnecessary expenditure of billions of dollars has resulted in huge balance-of-payments deficits year after year. This has threatened the stability of our dollar.

The nations of Western Europe can certainly provide the necessary troops and air forces to defend themselves. It is ridiculous to believe that the 280 million people of Western Europe, with tremendous industrial resources and long military experience, are incapable of defending themselves against 240 million Russians. This is at a time when the Russians are engaged in a bitter dispute and sporadic warfare with 800 million Chinese along a 4,500-mile common border separating the Soviet Union from Communist China.

Our Secretary of Defense and the generals of our Joint Chiefs of Staff continue to view the world through spectacles of the World War II era when a weak Western Europe faced a dynamic, expansionist, cynical Soviet Union under Joseph Stalin. Following the death of Dictator Stalin, the threat of invasion became more and more remote. President Nixon has emphasized the fact that the era of the "cold war" between our Nation and the Soviet Union no longer exists.

President Nixon recently placed an official seal of finality on that era in American history from 1946 to the death of Stalin when a cold war raged between the dictators of the Kremlin and the United States. At that time the two huge Communist nations on this planet were in accord with each other. During the last few years the Soviet Union has withdrawn from Eastern Europe more than 10 divisions of its armed forces from the European area. Most of these soldiers, along with other ground forces of the Soviet Union, are now stationed along the 4,500-mile common border separating the Soviet Union and Communist China. There has been fighting and bloodshed and the Russians have invaded sections of Mongolia slicing off Chinese territory.

It may well be that the overwhelming presence of American military power in the past quarter century has foreclosed promising avenues of European development. It has prevented West European countries from developing their own military defense system to the extent they probably would have done otherwise. It has encouraged them to remain encased in the cradle of dependency.

Our massive military presence in Western Europe has become merely foreign aid to the European countries—needless foreign aid costing American taxpayers billions of dollars. The nations of Western Europe can unquestionably provide the necessary troops to defend themselves. There is no reason for them to depend on us.

We must emerge from the dark shadows of the 1940's to the reality of the 1970's, close down our unnecessary military installations and make a sincere effort to solve the challenging crises facing us here at home. This would be a major step toward creating an international climate conducive to peace. We must give top priority to solving the grave problems confronting us in our own country.

AMERICAN POW'S

Mr. PEARSON. Mr. President, in this festive holiday season our thoughts naturally dwell on our loved ones. Family and friends gather. Gifts and experiences are exchanged. Old stories are retold and the bonds that tie us together are reaffirmed and strengthened.

But in the midst of this understandable preoccupation with personal and family affairs, all Americans should also remember those for whom this holiday period is not a time of celebration, but rather a time of poignant sadness. They are the families of our prisoners of war. They are the parents, wives, sweethearts, sisters, brothers, sons, and daughters whose family reunions are achingly incomplete. They are perhaps the cruelest victims of this decade-long war. Often they do not even know whether their loved ones are alive or dead. And if they are fortunate enough to know their men are alive, then they usually do not know their condition.

Mr. President, our Government has made repeated efforts to free these POW's. Every tactic from the negotiating table to commando raids has been tried with little success. The endless wait goes on. We cannot fill the void these men have left in their families and their communities, of course. But each of us can and should pledge to renew whatever efforts we are capable of mounting to end this war and get these men back again. Fortunately, there are signs that at last the growing wave of public pressure to obtain an accurate and complete list of POW's is beginning to produce results. More and more verified names are being obtained from various sources. And more interviews and broadcasts involving American POW's are also being permitted.

Needless to say, this progress to date is still woefully inadequate. No complete list of captives has yet been forthcoming. No neutral observers have been allowed to inspect all POW camps. Communications between those known to be held captive and their families is usually erratic and so laden with propaganda as to often make it more painful than enlightening. No guarantees have been obtained from the North Vietnamese and Vietcong that our men will receive at least the minimum standard of decent treatment to which they are entitled under the Geneva Convention.

Mr. President, it is understandable, but also unfortunate, that most public attention has been given to efforts directed at the regime in Hanoi—understandable because the North Vietnamese are rightly held responsible for the conflict in Southeast Asia, unfortunate because it sometimes gives the impression that little is being done to improve the plight of our men who are missing or captured in South Vietnam and Laos. All too often in discussions of the problem, the fate of these men is apparently ignored, yet they comprise the majority of the total listed as missing in action or known to be POW's. The most recent statistics released by the Department of Defense illustrate the full dimensions of the problem:

	Missing	Captured	Total
North Vietnam	403	378	781
South Vietnam	496	79	575
Laos	229	3	232
Total	1,128	460	1,588

Mr. President, the task of locating American POW's and assuring their decent treatment is much more difficult with regard to those held by guerrilla forces outside of North Vietnam. The government in Hanoi is known and visible. To a large degree we can succesfully hold it accountable for its acts. We can bring worldwide diplomatic pressure to bear. And, to a limited extent, we have seen this pressure produce results. Moreover, our men are held in fixed camps which tend to make identification and sanitary conditions easier to verify. In the south, however, and in Laos, the problem is more complex and the situation of even graver concern. Here, American POW's are held by shadow governments singly or in small groups with no fixed location for their detention. They live under the most primitive conditions imaginable and they are moved from place to place with their capturing unit as it moves. There is nothing approaching a uniform standard of treatment, except to describe it as shockingly inadequate. They may be subject to brutal mistreatment at the whim of their guards and even minimal health precautions are ignored.

At least equal emphasis must be given to those believed held in other parts of Southeast Asia as to those believed to be in North Vietnam. The slowly growing amount of information released by Hanoi regarding POW's as compared to the almost total silence from the Vietcong and Pathet Lao makes the contrast even more stark. Many families, some of whom have been waiting for more than 5 years, deserve at least to know whether their loved ones are being held prisoner. Simple human decency demands no less. Increased public attention should also be focused on the unwillingness of the Vietcong and Pathet Lao to grant even those small civilized amenities such as mail, food packages, and so forth, that have already been provided in many cases by the North Vietnamese.

Only one letter has been received from an American POW held by the Vietcong and none has been received from a POW in Laos. So far as we know, no mail of any kind has ever been delivered to any of these men. North Vietnam at least allows some men to receive packages, but the Vietcong have never accepted any packages.

Mr. President, we all know of the flurry of excitement and soaring hopes every time word is received that the North Vietnamese are releasing more information about the Americans they hold prisoner. We also have all experienced those sharp disappointments when that information has proved to be less complete than we had been led to believe. But, nonetheless, at least some progress, however halting, is being made. No such progress has been forthcoming for the men held prisoner in the South. The Vietcong have never released a list of men held captive and they have never permitted any inspection of the camps in which our POW's are sometimes detained. They never have even given us official information on men known to be dead.

Sixteen U.S. POW's are known to have died in Vietcong captivity—three were executed and 13 died from malnutrition or related diseases. Nineteen POW's and four civilians have been released and 22 Americans have escaped.

Mr. President, this barbarous treatment of American prisoners of war must be stopped. This senseless torturing of innocent families who are deliberately left to live with fear and rumor must also be halted. As I said earlier, the only lasting and wholly satisfactory solution is to end the war. After the fighting stops and our troops are brought home, we hopefully will have little difficulty in settling the POW issue and reuniting our men with their long-suffering families. I wish this war had never been begun and the sooner it is ended the sooner all aspects of this tragedy will be over. But until that happy day arrives, we must increase our emphasis on determining the fate of our men held in the South and further intensify our diplomatic drive to secure humane treatment for all POW's wherever they may be held.

War always leaves misery in its wake. This one is proving no exception. Its corroding stains are seen throughout our society and increasingly throughout the world. None have endured a more excruciating hell than the families of those who were ordered to go and fight in that far corner of the globe and who have now vanished. They deserve more than our sympathy and gratitude. They also deserve our unflagging help. That, too, must be remembered during this season of remembering.

A TRIBUTE TO JUDGE SIMON ERNEST SOBELOFF

Mr. MATHIAS. Mr. President, Judge Simon Ernest Sobeloff of the U.S. Court of Appeals for the Fourth Circuit will accept qualified retirement on December 31 and enter a new phase in his long and distinguished career at the age of 76. He has served and will continue to serve his Nation with distinction; but no tribute to Judge Sobeloff is necessary to call attention to a record already so well known. He has been a judge in every sense that the title implies and demands. He has sat in judgment on the cases brought before him with all the knowledge of the law gained in a lifetime of study and practice, with the wisdom of a man who observes the world around him and recognizes what he is seeing and with the compassion of a man who holds a personal philosophy and who knows the warmth of love and friendship. Such service cannot be gilded with praise or enhanced by admiration, but can be recognized as a great example for others to follow.

The career of Simon Sobeloff is well known in Maryland. We are very proud of him. He was born in Baltimore and is the product of Maryland's public schools. He worked his way through the University of Maryland Law School. He served as assistant and deputy city solicitor and ultimately as city solicitor of the city of Baltimore. President Hoover named him U.S. attorney for Maryland in 1930. But his service was not limited to official position and formal titles. For example, Theodore R. McKeldin looked to Simon Sobeloff as adviser and friend through two gubernatorial and two mayoral administrations. Governor McKeldin named him chief judge of the Maryland Court of Appeals in 1952. Incidentally, this appointment made Judge Sobeloff the first Jew to sit on the State's highest court in three centuries of Maryland history. Simon Sobeloff had served Governor McKeldin as unofficial cabinet member, confidential adviser, speechwriter, and as chairman of the State reorganization commission. The friendship between these two unusual men has been constant through the years.

Former Senator J. Glenn Beall, Sr., in this Chamber in 1955 spoke of this fine Marylander and American in a way which reflects the widespread regard for Judge Sobeloff. He said:

> The present Governor of Maryland has paid Simon Sobeloff a great tribute by remarking that he is "a man who goes forth to meet the situations that are fraught with danger and calmly sets them aright before they acquire the statures of crises."
>
> Simon Sobeloff has never failed the people of Maryland. As a public official and as a private citizen he has shown himself to be a man devoted to the common good.

Though he has never been a candidate for an elective office, Judge Sobeloff has been in public life much of the time since the age of 12 when he was a page in the House of Representatives. It was a short road to 1953 when President Eisenhower asked Judge Sobeloff to assist him in writing his inaugural speech.

President Eisenhower expressed his appreciation of Judge Sobeloff's wisdom and talent by appointing him successively Solicitor General of the United States and judge on the U.S. court of appeals, of which he later became the chief judge. And, it has been in the court of appeals that Judge Sobeloff has served continuously and outstandingly since 1956.

Judge Sobeloff, in serving his Nation, has demonstrated remarkable foresight and independence of judgment. As Solicitor General, he advised the Government to confess error when it had made a mistake, a procedure that was unwelcome to those who think that Government can do no wrong, but which is characteristic of a man of great integrity. In his advocacy as an attorney and his decisions as a judge, Simon Sobeloff has been mindful of the need to assure the rights and liberties of all Americans. His actions and efforts in halting segregation are most illustrative.

A humane, religious, and learned man, Judge Sobeloff demonstrates an understanding of people and their problems. In 1956, in addressing the Federal Bar Association, he stated:

> The thing for Government officials and their legal advisers to remember is that they are not engaged in a mechanical process, but are dealing with people and people's rights.

Judge Sobeloff practiced this throughout his long and distinguished career.

Judge Sobeloff never missed a beat when he stepped down as chief judge on his 70th birthday. He has continued to sit in cases, enliven courtrooms, write opinions and humanize the law as he has done for many years. He is nearly unique in being able to exhibit true wit or a quieter humor without jeopardizing the dignity of the bench or the solemnity of judicial proceedings. In taking advantage of the opportunity for qualified retirement and thereby making a place in his court for an additional appellate judge, I am confident that Judge Sobeloff will again trade chairs without missing a beat—and I am confident that our vision of the law will continue to be more lucid, more precise, more informed, and more commonsense because he continues to be a great judge.

Mr. RANDOLPH. Mr. President, it is a privilege to join with the distinguished Senator (Mr. MATHIAS) in expressing tribute to Judge Simon Sobeloff on his retirement from the bench of the U.S. Court of Appeals for the Fourth Circuit, which includes West Virginia.

The Senator from Maryland has appropriately recounted the career of Judge Sobeloff—a devoted and dedicated public servant. His career and outstanding record of achievement are well known. More important, however, than the details of a career or the listing of achievements are the qualities and the

character of the man. Although the people of our Nation appreciate the work of Judge Sobeloff, it may be that the example of his character, his philosophy, and his ideals constitutes his greatest contribution. His judicial and legal work are matters of public record. Few persons can possess the professional ability of Judge Sobeloff, but every person can strive to emulate his qualities of character.

Throughout his public career there is evidenced his attributes of compassion, courtesy, integrity, kindness, and understanding. These qualities were the guiding forces in Judge Sobeloff's actions and they were always apparent in his efforts to resolve complex issues and to help people with their problems.

It has been said that Judge Sobeloff has endeavored constantly to humanize the law. I believe this to be true and I submit that this is a necessary and vital function of those involved in the judicial and legal process. The Senator from Maryland earlier referred to the judge's statement in 1956 before the Federal Bar Association:

> The thing for Government officials and their legal advisers to remember is that they are not engaged in a mechanical process, but are dealing with people and people's rights.

The value of this admonition is more important today than ever before.

Mr. President, Bacon's essay "Of Judicature" tells us:

> Judges ought to be more learned than witty; more reverend than plausible; and more advised than confident. Above all things, integrity is their portioned and proper virtue.
>
> Patience and gravity of learning is an essential part of justice; and an over-speaking judge is no well-tuned symbol. It is no grace to a judge first to find that he might have heard in due time from the bar, or to show quickness of conceit in cutting off evidence or counsel too short; or to prevent information by questions though pertinent.

And Socrates defines the qualities of a judge:

> Four things belong to a judge; to hear courteously; to answer wisely; to consider soberly; and to decide impartially.

Mr. President, Judge Simon Sobeloff knows and appreciates the wisdom of these men. Over the many years, he has been equal to the standards of service which they established in their writings. He is truly a judge on the bench—but always he has been a gentleman in the administration of the law.

THE LENINGRAD TRIALS

Mr. BROOKE. Mr. President, I have followed with despair the progress of the trials just concluded in Leningrad.

Few facts are known, because contrary to the practice of most nations in the world, these trials were held in secret. However, we do know that 11 men and women were arrested several months ago on a charge of conspiring to hijack a Soviet airliner and escape from the Soviet Union. Since then, these men and women have been held incommunicado. They are reported to have made confessions, and, as a result, two Soviet Jews now stand condemned to death while the others have been given long sentences at hard labor.

Mr. President, 53 years ago, the Soviet Union fought a bloody civil war, the stated purpose of which was to free the people of the country from arbitrary rule. Many millions of so-called enemies of the people were subsequently killed under Stalin. But with the institution of new leadership, the world had cause to hope that equal justice in the Soviet Union would at last become a reality. The secret trials in Leningrad and the unconscionable sentences for the alleged crimes are destroying that hope.

Mr. President, I urge that the Soviet Union begin to restore the confidence of its own people and of the people of the world by commuting the sentences which have been imposed. And I urge that the Government of the Soviet Union provide fair and equitable justice for its Jewish people and all others who live within its borders.

THE HONORABLE ROBERT McNAMARA: A REMARKABLE PUBLIC SERVANT

Mr. PERCY. Mr. President, the Permanent Investigations Subcommittee of the Senate Government Operations Committee recently completed an exhaustive analysis of the TFX program. I commend the committee chairman, the distinguished Senator from Arkansas (Mr. McCLELLAN), as well as the staff of the subcommittee, for their patience and persistence in unraveling and focusing the spotlight of congressional attention on a program that has had many unfortunate aspects to it.

I was not a member of the Government Operations Committee during most of the period when the TFX investigation was conducted, and at no time did I participate in the consideration of the role of former Defense Secretary Robert S. McNamara in this matter. I cannot, therefore, associate myself with the personal attacks made against the former Secretary of Defense in the subcommittee's report.

But, Mr. President, more importantly, I have personally known Mr. McNamara both as a member of the Cabinet during the Kennedy and Johnson administrations and as the president of the World Bank. I have the highest personal regard for him. In my opinion, he is a man of great intelligence, integrity, imagination, boldness, and courage. In my travels to various foreign countries, I have found that political leaders and international bankers hold him in equally high esteem.

The TFX project involved certain errors in judgment, and, as the Secretary of Defense at the time it was conceived and executed, Mr. McNamara must bear some portion of the ultimate responsibility for them. I have never known him to be a man to evade his responsibilities, either in business or in public life, and I am sure he would not in this instance.

I also know that Mr. McNamara is an extremely able and uncompromisingly honest man, who has been guided by a dedication to the public interest throughout his years of public service. I previously made my views known to the Senate at the time Mr. McNamara was elected president of the World Bank. I said then that he would continue his distinguished public career in a new field of vital importance to the entire free world, and his accomplishments at the World Bank to date have even exceeded my high expectations.

Mr. President, I wish to pay tribute today to a truly remarkable public servant—Robert S. McNamara.

THE MASSACHUSETTS ECONOMY

Mr. PROUTY. Mr. President, my good friend, the junior Senator from Massachusetts, spoke to the Boston Rotary Club at the Hotel Statler in Boston on December 16. The subject of this speech was "The Massachusetts Economy: Unemployment and Conversion."

The Senator discusses how our economy is changing from one giving priorities to the military and space sciences to one substantially concerned with major domestic problems.

While concluding that industry cannot make such a massive reorientation unaided by State and Federal resources, Mr. President, Senator BROOKE emphasizes that reorganization will be required in both industry and Government, and that the combined ideas of labor leaders, scholars, scientists, engineers, and Government officials will be needed to provide new and coordinated directions for research and production.

Senator BROOKE also touches on how the people of Massachusetts have been leaders in promoting the concepts of religious freedom, political freedom, and individual freedom from the days of the Pilgrims, and challenges them to provide the scientific and engineering leadership necessary to overcome the undesirable byproducts of technological change.

These remarks, Mr. President, are in the context of Massachusetts and the Massachusetts economy. Beyond that, however, this speech is a revealing and well-thought-out presentation of many problems we will all face in the 1970's, with suggestions as to how they can best be met. As I believe it would be worthwhile for every Member of Congress to consider these thoughts, I ask unanimous consent that the speech of the distinguished junior Senator from Massachusetts be printed at this point in the RECORD.

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

THE MASSACHUSETTS ECONOMY: UNEMPLOYMENT AND CONVERSION

(Speech by Senator EDWARD W. BROOKE)

This week before Christmas is ordinarily reserved for thoughts for Christmas cheer. But for many thousands of men and their families here in Massachusetts and across the country, Christmas this year will not be a particularly cheerful time.

All those who suffer the dreadful plight of unemployment, of course, have our concern. But today I wish to focus on a special category of unemployed: the scientists and engineers. I do so not because their situation is any worse than that of others, but because they uniquely possess the training and re-

sources to develop new technologies, devise new products, conceive new industries, and in the process create the jobs and income which will help to decrease unemployment and restore economic health to Massachusetts.

The source of our current difficulty is obvious. After nearly two decades of dramatic and unhindered advances in the military and space sciences, we have begun to make serious reductions in our expenditures in these fields. In 1968, our commitment for defense was more than $81 billion. This year, we have appropriated $76 billion for defense. This is a reduction of $5 billion—or, allowing for inflation, nearly 10%—in only three years. Likewise, our spending for space exploration has declined from a high of $5.2 billion in 1965 to a new low of $3.2 billion in 1971.

Since coming to the Congress in 1967, I have been privileged to serve on both the Space and Armed Services Committees, and I have had the opportunity to learn firsthand where these reductions are being made. It is true that much of the cutback in military spending is a result of the winding down of the war in Vietnam. But a surprisingly large share of the reduction—well over $800 million since I began serving on the Research and Development Subcommittee of Armed Services in 1969—is the product of a more cautious approach to research and development.

Very candidly, I do not deplore this trend; in fact I welcome it and have participated in its furtherance. As a fiscal conservative, I can see little justification for two or three separate branches of our armed services proceeding with research and production of nearly identical aircraft or missiles, simply to satisfy service pride. If the Army has developed a missile technology which will serve the Air Force or the Navy equally well, then that technology should be shared, not sheltered from the view of an in-house rival. The same principle applies for separate helicopters, fighter planes, or communications technology. Part of the Pentagon's program of defense should be defense of the taxpayer's dollar, and at long last Congress has begun to enforce that concept.

As you know, questions also have been raised about the value of our space program. Conceived in grandeur a decade ago, NASA has increasingly come to be viewed as a drain on our resources here at home. A concern for the quality of life on earth has pervaded recent attempts to reduce the space budget. At times it has threatened to lower it to a level where the program literally would be incapable of continuing.

I have supported many reductions, but I have not and will not support those which would cripple our capacity to carry on a constructive scientific endeavor. It is one thing to require a reduction in the number of manned flights to the moon, on the grounds that we can learn little more from the tenth flight than we did from the third. It is quite another to eliminate funds for the space shuttle, presently the only plan which would allow us the capability of reusing and repairing, in space, expensive operational equipment. Repetition of previous experiments may be unwise where the resources are as limited as they are today. But the pursuit of pure knowledge, the creative furthering of the frontiers of learning, cannot be denied by any nation which claims to lead the civilized world. Science in the truest sense is civilization. It is one of the most accurate measures of a society's faith in the future of mankind.

If reductions in our expenditures for such programs are required, they must always be made with these larger concerns in mind. In the last two or three years we have, as the saying goes, cut a great deal of the "fat" from our space and defense budgets. But in the process we have set in motion some totally unwanted consequences—the grimmest of which is the near decimation of our research community.

Little real opposition can be raised to the prudent rejection of non-essential, overlapping programs. But opposition must be mounted where programs are excised without providing alternative channels for the flow of scientific research.

This is where we find ourselves today. We have reduced significantly our budget for defense. But we have not transferred those resources into other fields. Military and space spending have not been cut simply because taxes are too high. And they are! The principal argument is the need to increase resources for domestic programs. Such a reorientation is far from an automatic process. And unfortunately we are just beginning to realize that increased expenditures in domestic programs will benefit us little if they are unsupported by new technology and new techniques.

How much do we really know about eliminating the pollution in our water and air?

How much do we really know about making our cities livable?

How much do we really know about the causes and cures of cancer and heart disease, or the various forms of mental illness?

How much do we really know about the everyday problems of urban transportation and the disposal of waste?

We who have advanced so far in the technology of human destruction, must admit we have practically stood still in the techniques for improving the quality of human life.

Three hundred and fifty years ago, nearly to the day, the Pilgrims came to Massachusetts in search of freedom. They found a land of freedom and opportunity.

Two hundred years ago, it was again the Commonwealth of Massachusetts which gave to the colonies the impetus to fight for freedom. John Adams called the Continental Congress; Paul Revere and the men of Lexington signalled the outbreak of revolution; Crispus Attucks gave his life, the first casualty of the war.

One hundred years ago it was also the men and women of Massachusetts who were in the forefront of a new chapter in human freedom. Wendell Phillips and William Lloyd Garrison were the country's most vocal critics of the degrading practice of slavery. Their impassioned pleas led to war and in the end slavery was abolished.

Today a new challenge faces Massachusetts. There is a new cry for freedom. It is the voice of those who want the richest land in the world to provide decent housing, efficient transportation, a healthy environment and education for all its citizens. And these wants must be met. To meet this challenge, a national effort comparable to our commitment in the fields of space and defense must immediately be mobilized.

This is where Massachusetts can make its fourth great contribution to a revolution in world thought. Just as we have promoted the concepts of religious freedom, political freedom, and individual freedom, so now we have a unique opportunity to provide the leadership necessary to overcome the undesirable by-products of scientific and technological change.

What does Massachusetts have to offer to the nation today? First of all, we know what it does not have: it does not have vast reserves of natural resources; everything from fuel oil to cotton must be brought in from other regions. It does not have vast pools of unskilled manpower and our population is increasing at a slower rate than the national average. We do not have the temperate climate which appeals to those in retirement and to year-round vacationers. And frankly, our tax structure has not attracted new settlers and new industry.

But Massachusetts does have one unique resource—the very resource which in fact is presently being squandered. Massachusetts has brainpower and skilled labor. It has men and women learned in engineering and the sciences, the richest educational community in all the world, the most advanced medical facilities of any area in the country. What is needed is awareness, commitment, and ample funds, to fuse these elements in the most complete and progressive domestic research and development program ever conceived.

There is more awareness of this fact in the research community. Just a few weeks ago, the Arthur D. Little Company completed a two-volume study entitled "Fostering Industrial Growth in Massachusetts". I read it with great interest. It deals with the type of reorientation which I recommended to you today. Those who conducted the study found that the areas of greatest potential growth for Massachusetts business lies in the field of computer peripheral equipment, bio-medical instrumentation, and pollution control—all high skill, high technology fields requiring massive preliminary research.

But in order to take advantage of these opportunities, it will be necessary for Massachusetts industry to convert from military and space oriented enterprises into those addressing the major problems facing our domestic society.

In actual practice this is much easier said than done. It has been reported that some Massachusetts companies have succeeded in converting. But closer examination opens that assertion to question. Defense oriented companies have acquired subsidiaries, giving them an entree into civilian fields. Other firms have sold those divisions which have been the most heavily defense related. This is not conversion. For small one-product companies, the task is even more difficult. They face the necessity of remaining solvent while conducting research for new markets and new products—a tremendously difficult task.

Obviously, Massachusetts industry cannot conduct such a reorientation unaided by state and federal resources. Industries which are suffering from loss of contracts, which have laid off workers and reduced production, are not in a position to finance a wholesale redirection of their efforts. But these industries can begin to lay the groundwork. Intra-industry conferences, consultation with parent companies, and dialogue with government and the academic community can help to determine the most appropriate use of existing resources and facilities.

I suggest a statewide conference early in the new year of business and labor leaders, scientists, scholars and government officials, to share ideas for coordinated approaches and for new directions in research and production. I have no doubt but that research projects currently underway in our universities may have important potential application to the production capabilites of some of our most seriously threatened firms. I have no doubt, either, that some of the techniques most desperately sought by our cities and towns—in the areas of crime and traffic control, of communications improvement and structural reinforcement—may be available in the R&D stage in some of our laboratories on Route 128. A critical first step in the reinfusion of energy is the exposure and the linkage of knowledge and need.

But seed capital and research funding must come in large measure from the Federal government. Unfortunately at a time when we are so concerned with reordering our priorities, the proportion of our research and development budget devoted to domestic programs has risen only three percent in the last three years. Even in this fiscal year when reductions of more than $3 billion have been made in space and defense, expenditures for these two areas and for Atomic Energy still constituted nearly 80 percent of our overall R&D budget.

The time has come for a determined research and development effort in the equally

vital fields of housing, health, transportation and the environment. What we really need is a civilian-industrial complex to meet this challenge. To initiate such an effort, I will propose several measures at the beginning of the next Congress. One is a bill to increase substantially the funds provided for the National Science Foundation, which is in the best position to provide economic support for basic research programs to lay the foundation for usable, technical developments.

We must make additional use of the National Science Foundation's Register of Scientific and Technical Personnel. As a supplement to the complete biennial report, I propose that a quarterly supplement be issued listing by scientific specialty and location all unemployed scientists registered with the Foundation. I've been assured that this can be done, by extending the techniques currently utilized by the Foundation. The information can then be distributed to state employment agencies, professional publications, and academic and government research centers.

As you well know, the Department of Labor has been providing job-bank information, but experience has shown that scientists simply have not availed themselves of this service. Nor is the information available to informed professional associations sufficient to meet the need. Supplementary efforts like the NSF program are essential if these men and women are to be reached.

But support for basic research alone will not provide the necessary job opportunities in the engineering and skilled labor fields. Other amendments which I intend to propose to appropriate authorization and appropriation bills would increase department and agency funds for research and development in the domestic fields. In a nation where nearly 12 million homes are listed as substandard, what possible reason can there be for spending less than $10 million annually on research for housing and urban development? In a nation where pollution is a major contributor to disease and death, how can we justify spending little more than one-tenth as much on the study of environmental preservation as we spend on developing weapons of war? In a nation where 54,870 died in road accidents last year, and where airplanes have frequently crashed because of inadequate radar control, how can we continue to spend only one-twentieth as much on earth transportation research as we spend on space research.

Additional funding can certainly help. But the departments and agencies themselves need change. And in addition, new guidelines must be established to govern the allocation of larger resources. Encouraging is the tentative HUD plan calling for a quick training and orientation program for scientists and ex-GI's, paid for under existing federal manpower and Model Cities programs, and the placement of these personnel in technical jobs in the cities.

We face the problem of domestic agencies not having the experience of Department of Defense and NASA for handling large contracts. But planning can best take place through the cooperation of mission-oriented agencies and departments. Research cannot make its fullest contribution apart from the men who will oversee its implementation.

Reorganization will be required, both in government and industry. We can learn from the experience and organization of NASA. When the agency was first created in 1961, it was composed of scientists and technicians and a few government workers. None of them had any experience in overall systems management. Some of those charged with administrative responsibility knew little of the technical nature of space exploration. By the same token, many scientists in charge of certain aspects of the program had devoted their lives to pure research and had no experience in management. But they were able, intelligent, and most of all they had the capacity to innovate and adapt. They were flexible, and they learned together. A whole new industry was born and the goal of placing a man on the moon by 1970 was not only reached, but exceeded.

American genius can surely exceed the goal when human life, not human pride, is at stake.

THE FOREIGN AID APPROPRIATION BILL CONFERENCE REPORT

Mr. FULBRIGHT. Mr. President, the question which will be before the Senate in the conference report on the foreign aid appropriation bill is far more important than whether to appropriate $200 million, which has not been authorized, in order to sell arms on credit to foreign countries. The issue before the Senate goes to the heart of the legislative process: Does the Senate wish to allow the House Appropriations Committee to usurp the powers of the Senate's authorizing committees? If the Senate accepts the position of the House conferees, the legislative committees might as well close up shop and go home. That is the principle at stake here.

Let me first discuss briefly the background of the problem. On June 30, after a 7-weeks-long filbuster against the Cooper-Church amendment on Cambodia, the Senate passed H.R. 15628, authorizing appropriations of $250 million for the foreign military sales program in fiscal 1971. The House had authorized $272.5 million. In conference the House conferees refused to consider any reasonable compromise on the Cooper-Church provision. As a matter of fact, the House conferees have refused to meet with the Senate conferees since mid-August, in spite of our standing invitation.

Now, as to the appropriation bill. The foreign-aid appropriation bill, containing $272.5 million for the foreign military arms sales program, passed the House on June 4, during the filibuster on the authorization bill. The Senate Appropriations Committee did not report the bill until November 24. The Senate committee did not recommend any money for the military sales program because the committee report stated: "authorizing legislation was still in the conference committee." But when the bill came out of conference it included $200 million for the program. Primarily, as a result of the objections to this action by many members of the Foreign Relations Committee, the Senate rejected the conference report and a new conference was convened. The outcome is the proposal now before the Senate.

Mr. President, within the last year the Senate has repeatedly gone on record in support of the principle that appropriations should not be used to circumvent the authorization process. For the second year in a row the foreign-aid appropriation bill has been brought back to the Senate containing large sums that have not been authorized.

Last year the Senate, by a vote of 62 to 28, adopted an amendment to the foreign-aid appropriation bill stating that no appropriated funds could be spent unless authorized by law. The Senate conferees came back with a conference report that not only threw out that provision but which also included $54.5 million above the authorization limit—to give jet fighters to Taiwan. As a consequence, the Senate tabled the conference report and by a vote of 48 to 22 instructed the conferees to insist on keeping the appropriation within authorized limits. The second conference report was within the authorization ceiling—the money for the jets had been eliminated.

In order to write into law the principle upheld by the Senate in its action on that bill, the Foreign Relations Committee included a provision in the foreign military sales bill, the authorizing bill now tied up in conference, which specifically stated that any unauthorized appropriation for foreign aid or military sales could not be spent. That will be one of several significant provisions in the military sales bill to go down the drain as a result of the refusal of the House conferees to meet. Finally, only a few days ago the Senate adopted provisos to items in the supplemental appropriation bill which again reaffirmed the principle at issue here. So the record of the Senate is clear—the appropriations process should not be used to undermine or make end runs around the authorization committees.

If the approach being pressed on the Senate by the House conferees were followed to its logical conclusion, it would be possible for the Appropriations Committees to initiate new weapons systems which had not been approved by the Armed Services Committee, new highways or dams not authorized by the Public Works Committee, or new space programs not approved by the Aeronautical and Space Sciences Committee.

For the Appropriations Committees to provide funds for programs for which authorizing bills have not passed the Senate, or are tied up in conference, without the appropriation being conditioned on passage of authorization legislation, makes a mockery of the legislative process. And under the theory used by the conference to justify its actions on funds for the military sales program, the Appropriations Committees could become the arbiters of all disagreements between the Senate and the House on authorization levels as long as they do not go above the lowest figure approved by either body. The authorizing committees might as well close up shop and turn the entire legislative function over to the Appropriations Committees.

Mr. President, the issue before the Senate is not that of voting funds for the arms sales program. It is whether the regular and established procedures of the legislative process are to be followed. To permit the House conferees to force this item on the Senate will be an admission of the impotence of this body. I hope that my colleagues will stand by the principle which the Senate has repeatedly endorsed during the last year.

I urge that the bill be returned to conference.

ACADEMIC RENEWAL

Mr. MUSKIE. Mr. President, at a time when many of the major institutions in our society are under assault, from with-

in and without, the need is pressing to reexamine their foundations.

Our colleges and universities have been particularly hard hit by shrill demands for relevance and threats of reform. Too often the most vitriloic charges come from those who would destroy and not build, from those who would censor rather than those who seek knowledge.

It is worthwhile, I think, to pay special attention when a leader of the academic community offers constructive proposals for relevance and reform. This Dr. Jean Mayer has done in a profound article in the November 16, 1970, issue of the Harvard Bulletin.

Dr. Mayer knows whereof he speaks. His educational credentials, including his present post as professor of nutrition at Harvard, speak for themselves. But Dr. Mayer can also speak out as one who has devoted considerable time and talent to Government service.

In 1969, he organized the White House Conference on Food, Nutrition and Health as Special Consultant to President Nixon. He currently serves as a member of the President's Consumer Advisory Council.

Jean Mayer offers no simple solutions to the problems of our universities. Rather he asks us to ponder what a university is and what it should be. He talks in the language of our age, and he tells us that worldly issues such as conglomeration and communications are also issues to be dealt with in colleges as well as corporations.

Mr. President, I ask unanimous consent that the text of Dr. Mayer's article be reprinted in the RECORD at this point.

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

THE COLLEGE AND THE UNIVERSITY: A PROGRAM FOR ACADEMIC RENEWAL

(By Jean Mayer)

One of the contemporary myths is that until the recent wave of disruption on the campus we had cohesive universities and that their unity is now threatened by warring factions within the institution. I believe that, on the contrary, universities in the post-World-War-II era have become conglomerates rather than communities: our own university, Harvard, has not escaped this fate. At present Harvard is a collection of institutions each with its own educational purpose and student body, its own faculty, its own tenure system and salary scale, its own budget, its own fund-raising. They share only a name, a president, a board, a retirement system, and the ability to borrow (in emergencies) from the central treasury. The clearest benefit of this structure to the franchised institutions is that the unexcelled prestige of the name has made it easier for each unit to recruit good students and a good staff. In turn, several of the schools have succeeded well enough to contribute notably to the reputation of the University. However, adequate though this organizational scheme has been in the past, it is becoming daily more apparent that the degree of communication between the various schools of Harvard—and those of contemporary universities generally—has become so tenuous as to bring into question the very need for universities as integrating institutions.

It is rather curious that not even the most relentless critics of Academe ever question the need for complex univerities. Yet the need for organizing undergraduate and professional schools in the university structure is not a foregone conclusion. Obviously, any modern society needs most of the components of the universities for its survival—let alone its progress. But essentially all these components can and do exist independently, either as autonomous institutions or as parts of entirely different administrative structures.

Medical schools are a case in point. In many countries they and allied health schools are run by the Ministry of Health, not the Ministry of Education. Most medical schools in the United States today are part of universities, but traditionally many were sponsored by and run as parts of hospitals. This is the way the great London Schools—Guy's, St. Thomas, and others started. In the United States past and present examples are many—Mt. Sinai and Flower and Fifth Avenue Medical Schools in New York, Hahnemann in Philadelphia, and so on. Nor is proximity a guarantee of communication. The Harvard Medical School, Dental School and School of Public Health are in Boston, only fifteen minutes from Cambridge by car, but before the 1969 Harvard "bust" this represented for most faculty and students an insuperable barrier. It was only when their students and faculty members were suddenly faced with the concept of Harvard as one threatened community, that the paucity of intellectual and organizational links became apparent. At that point contacts became a little more frequent and more than an insignificant number of professors became ready to make the short trip from Boston to Cambridge.

A similar separation can be found among Schools of Agriculture, e.g., the Institut Agronomique of France; many of the most famous schools of engineering in the world, e.g., the Zurich Polytechnicum, the Ecole Polytechnique, the Imperial College of Science and Technology and the Colorado School of Mines are not to this day parts of universities. Law schools have usually been more integrated—one of the two oldest universities in Europe, Bologna, started as a law school. But some of them, even today—two in Boston alone—are not components of larger academic institutions. Independent business schools (Bentley College in Boston), art schools (the Rhode Island School of Design), drama schools (Tyrone Guthrie), music schools (Juilliard), divinity schools (Andover-Newton), scholarly libraries (New England Historical Society), graduate schools (Rockefeller), research institutes with teaching components (Oak Ridge), athletic clubs, centers for adult education, all exist outside of a comprehensive university structure. And, of course, hundreds—close to two thousand, in fact—of our colleges of liberal arts exist as separate entities.

In the face of this multiplicity of patterns, one could ask not how threatened our universities are, but *why have universities?* If we need universities (and I deeply believe that we do) a more useful question is how do we build them so that they will again function as internal as well as external centers of communications? My thesis is that we need intellectual integration of universities, first because it will make for livelier, much more interesting institutions, second because the way in which our graduates will approach vast problems—pollution abatement, delivery of medical care, creation of new cities—will more and more call for people trained to see almost automatically the relation between various fields and professions. I further believe that the college of liberal arts is the most appropriate vehicle for the initiation of this integration—for the rebirth of universities which will live up to their designation. This integration seems to be a way not only to rescue the college of liberal arts (it is often those students who are the best prepared by intelligence and previous education who are the most dissatisfied), but to rejuvenate the other schools.

In the past great changes in academic structure have come slowly. They have come not as a result of academic reflection, but because of the pressure of great events—such as the French Revolution, or because of the emergence of the new technologies, or because of altered relationship with government. The oldest Western universities, from the Sorbonne and Bologna on, were started as captive schools under the jurisdiction of the local bishop. The purpose of the university was to form clerics, royal clerks, lawyers trained in Aristotelian logic and Galenic physicians.

Institutions which today we would consider research organizations, such as the sixteenth-century College de France or the seventeenth century Royal Society or Académie des Sciences, were started by progressive kings outside of, and often against the church-dominated universities. Except for Newton, most of the great eighteenth-century scientific and social innovators had little relation with universities, and development of the natural sciences and social sciences was largely effected outside of universities until late in the nineteenth century. Only, then did the need for application of these new sciences force a change in the ancient academic patterns.

In our country the radical break came with the establishment of the land-grant colleges, which were meant to be agents of *technical* change and development. At that point, American universities underwent their first metamorphosis: graduate schools, specialized professional schools, and large laboratories and technical schools appeared as components of the academic structure. The First World War caused an explosive spurt in the growth of the relationship between government and universities, as professors became involved in military technology. The great depression introduced a new dimension in the university-government partnership, as Harvard and other institutions became sources of personnel and advice in the renovation of the nation. This time it was not because of their expertise in technology, but because of their resources in the fields of economics, sociology, law, and public health. (Old grads in the thirties looked at the activities of more recent Harvard men, furthering and administrating the New Deal, with as jaundiced an eye as many a survivor of the thirties cast at the recent Cambridge scene.)

The Second World War considerably increased the mutual dependence of university and government, to such an extent as to create a second academic revolution. The Radiation Laboratory at M.I.T., the Argonne National Laboratory of Physics at the University of Chicago and the Fatigue Laboratory at Harvard were famous prototypes of hundreds of departments heavily subsidized by research grants. Far from regressing after the end of the war, these "research" departments, ranging from mathematics to social sciences and languages, became larger and larger in the course of the next twenty years. Present restrictions in federal funds should not obscure the fact that national support of universities is many times the pre-World-War-II level in almost all categories of research and teaching.

The transformation of the financial structure of universities—from one based on tuitions and endowments to one largely dependent on research grants—has had profound effects on universities, their separate schools and individual faculty members. In general, the new system has encouraged individual research and *professional* loyalty, but at the expense of teaching and *institutional* loyalty. Money, of course, talks and talks loudly: at Harvard as in many other private universities, a large number—in some faculties, *all*—of the assistant professors and associate professors in the physical, biological, medical and social sciences are supported by government and foundation grants. These are controlled by groups of professionals in the narrow, specific field of research of the applicant ("study

groups"). The judgment of colleagues in one's area of research outside of the university thus becomes clearly more important to economic survival; freedom of transfer and academic self-respect more important than the judgment of university colleagues in even closely related fields, let alone different disciplines. Furthermore, since each request for a grant is looked at for its intrinsic quality alone, or at most in terms of its national rather than academic priority, it becomes difficult to assemble a faculty balanced from the viewpoint of teaching. As a result of this we have ended up with entire departments staffed by members of questionable allegiance to the university. They get their local status from their university rank, but move to "better" jobs, consult, and are promoted essentially on the opinion of professional colleagues unfamiliar with everything but their published research.

While the financial structures of various academic institutions differ much more widely than most professors and students realize, the ways in which *research* has been supported has tended to make the university the house of specialists. Some of these are interested in the place of their specialty in a more general and original view of society, some of them less so. In turn, specialists have been grouped in departments which were more linked by a commonality of equipment and techniques than by broad philosophical and educational interests and have become more distant from one another—to an extent which is often ridiculous. The almost complete divorce of biochemistry from physiology, of public health from management or, for that matter of history from sociology or of English literature from drama, are common examples of a syndrome from which Harvard is not exempt.

The problem of *relevance* is largely a result of the Balkanization of teaching. The frequent criticism by students that the liberal arts college—indeed the University—does not offer an education relevant to the actual problems of the world is largely justified. The college and the various schools do offer courses that will help in the *solution* of contemporary problems. Sociology courses are helpful if one is interested in the improvement of big-city schools. The medical curriculum is useful background for a search for better medical care for all people. Some knowledge of chemistry is essential for an understanding of the definition, scope and possible solutions to the problem of water and air pollution. But none of these disciplines is sufficient by itself because none is preoccupied with the assessment in depth of the present situation, the formulation of the new dilemmas and the processes that might resolve them. No one discipline can contribute by itself more than a fraction of the knowledge needed in dealing with these topics. (Over-all approaches to basic contemporary problems are limited to the few new courses—often experimental "noncredit" courses—started in some universities as a result of intense pressure by students and a few "radical" faculty members.)

Professional schools teach the modes of thought and basic facts needed to practice professions and, at best, some of the intellectual and cultural background of these professions. Graduate schools are largely self-replicating units and move their students as fast as possible from the breadth of one discipline to a specialized topic. My thesis is that there is now, precisely as a result of the new pressures on universities, a rapidly growing justification for the existence of liberal arts colleges. I believe that colleges of liberal arts will be made to undertake a massive effort, not so much to "break the barriers between disciplines"—a rather hollow concept—but to look at problems as they present themselves *prima facie*. They will be led to consider which disciplines should be involved in the assessment of the present situation, and to elaborate the formulation of discrete questions. In looking for solutions, they will have to examine the way in which decisions are made, the manner of their execution and their presentation to the public. This will force colleges to select faculty "experts" and "generalists" (and sometimes outsiders who ought to participate in the teaching) in a very different way from current modes of selection. At present, universities differentiate very little or not at all between selections of college teachers and selection of graduate-school instructors. By ceasing to select faculty members because they are easily supported by grants, we may not be able to support as many faculty members. But we shall have a more effective teaching faculty.

It ought to be possible to develop for the four years of liberal arts a number of units of "relevant" problem-centered seminars—conservation, pollution, delivery of medical care to the poor (and the middle classes), psychological, medical, and social problems of adolescents, improvement of rural and urban schools, birth control, food and population, national defense, arms control—without impairing the possibility of the student acquiring depth in one or several of the classical disciplines. In many ways such exposure will deepen the insight and motivation of students of sociology, political science, biology, economics, physics and the humanities (incidentally, without in any way interfering with the cultivation of the arts).

The difficulty for the students to see the relevance of courses in the liberal arts college is increased by the fact that as disciplines have become substantial enough to become recognized professions, they have been removed from the college. Thus, the quasi-totality of graduates of liberal arts colleges now receive no exposure to medicine, law, agriculture, and rarely any exposure to engineering, architecture, city planning (let alone business administration, education, military "science," and theology). Medicine and architecture, incidentally, were liberal arts in Varro's list of nine liberal arts from which the seven medieval liberal arts were derived. Closer to us, Thomas Jefferson remains for most educated Americans a prime example of a cultivated man. Yet it would be impossible for a bright college student nowadays to give himself the general exposure to knowledge and the understanding of the professions which characterized our third President. It is no argument to say that there is so much knowledge in these fields that they cannot be taught at all except in very large doses. After all, everybody will have to *act* in these fields, deal with problems which have legal implications, choose doctors and decide to consult them, choose schools for his or her children, buy houses or stocks, and vote for representatives who oversee the spending of billions of defense dollars. Organizing courses in the professions for liberal-arts students is feasible: there are a few—very few—courses in existence which do provide some of this understanding. Professor Paul Freund, one of our greatest teachers of law, is giving an immensely popular course in law to Harvard and Radcliffe undergraduates, directed at students who do *not* plan to go to law school.

For that matter, nurses can get a brief, elementary course in medicine that most college students with some basis in biology could take (infinitely more appropriate material could be developed). Experienced professors of medicine with whom I have discussed feasibility of a college course on medicine are quite enthusiastic. And similar courses could easily be constructed for other disciplines. The greatest obstacle is obviously the fact that medicine in particular, and the other professions to a lesser extent, still feel more secure retaining the cloak of secrecy associated with their practice since the cave age. The argument often advanced by physicians that in medicine a little knowledge is a dangerous thing is easily disproved by a visit to any underdeveloped country: if self-diagnosis—to the extent that something is wrong which could be taken care of by a doctor—understanding of nutrition and hygiene, belief in the usefulness of therapeutic procedures and some understanding of their mode of action are missing, modern medicine becomes impossible to practice. An educated person should be able to read labels on common drugs and certainly on foods and have a reasonable degree of understanding of what they say. The frequency with which degree-holders are victimized by the most obvious forms of quackeries is daily testimony to the dsficiencies of our educational system. A similar case could be made in regard to law or architecture.

The elimination of professional subjects from the curriculum has done much to decrease the feeling that the college of liberal arts is irrelevant to real life. It also creates monstrous gaps in what ought to be the expected breadth of knowledge of any college graduate. To cite but one example: if democracy is truly a "government of laws and not of men," college graduates ought to know what law is all about.

Although this may sound paradoxical, another element which makes for the feeling of irrelevance is the absence, in our colleges and universities, of what I would call utopian thinking. By utopian thinking I mean first the elaboration of the concepts of what a good society should be: what our forebears would have called, using religious language, the vision of the New Jerusalem. It goes, however, beyond ethical and esthetic considerations. Because there are three billions of us on this planet, because we live (and have to live) in societies based on extremely complex and inter-reaching technologies, any desired modification of society has social and technological consequences which must be examined. It is not enough for colleges and universities to have become the institutionalized conscience of our society. If they are going to satisfy the young—and help to fulfill the Faustian desire for useful involvement with Mankind which also inhabits the mind of scholars—universities must lead in the elaboration of the options available to us, and their human and economic costs. It is not the function of the university to preach a single way in which society has to evolve, though obviously members of its schools (notably education, public health, public administration, city planning), and of the college may hold strong personal views which they can express when consulted by politicians and administrators. But it is the function of the university, as our secular church, to elaborate through discussion between the middle-aged and the young, between physicians and economists and ministers and educators and artists and philosophers and historians and psychologists, the goals that educated men should have for their society, for their children, and for themselves. It should also be the function of the university, because it is the home of representatives of all the major disciplines, to elucidate the relationship between action in one area and consequences or necessary action in other areas, to evolve what engineers might be tempted to call a "systems approach" to progress, and to educate its students to the fact that while aims may be easy to state in the abstract, in practice human and economic costs may force compromises in the face of other priorities. Surely, a vision of the future in realistic terms is as much a part of culture as a sense of continuity with the historic past or as understanding of the present. It is not only "relevant," but inasmuch as it places knowledge in a general framework and makes it usable, it is what *education* (as opposed to simple instruction or training) is all about.

It is in this type of endeavor that contact with the faculty can be most meaningful to students: the honesty, generosity, and universality of views which are characteristic of a good faculty, should show in debates that

realistically delineate the world we live in and probe the options from which we can choose. This should help to bridge the generation gap, however naive and ignorant the students may appear to the faculty, and however old-fashioned and slow to perceive new truths the faculty may appear to the students. It is essential, I believe, to have encounters where the quality of the persons will show through the differences in age and academic rank. Students will test their vision, their hope and their personal experience against the knowledge, collective experience and prudence of the faculty. The students will feel at last that they are taken seriously as *persons* as they share in this fundamental intellectual enterprise.

Common reflection on the aims of society would give the president of the university an opportunity to participate more actively in the educational process. The president, in his role of absentee father-figure, procurer of housing, food, money for instruction, is all too often too busy in his role of good provider to see and be seen, hear and to be heard by his students. They, in turn, attack him as a symbol of authority in general—particularly that of the even more remote and unreachable trustees and beyond them of the national government—with a shrillness designed to attract attention in a noisy, busy, crowded world, with an impersonal disrespect calculated to jar him into some sort of response—any response that may lead to an exchange. The most constructive exchange would be one in which he is seen as an experienced partner in a common effort to elaborate the different options open and the types of commitments and human costs they represent. Precisely because so many of his activities are at the interface between the University and society, he has a great deal to teach and he should teach it. This involvement of the president in the business of the university not only as an administrator but also as a teacher *and as a student* might do a great deal to eliminate the image of the University as the voodoo doll of society, where students attack the *symbol* of what they don't like in the outside world (the ROTC program becomes the Vietnam war, university expansion an urban renewal program indifferent to the needs of the poor, and so on).

The use of problem-centered teaching, the offering of courses devoted to those aspects of society which fall in the realm of the professions, the common elaboration of utopian thinking, are legitimate academic answers to the criticisms of lack of "relevance" of courses, lack of practical interest in the plight of contemporary problems, and lack of interest in the values of society.

I must emphasize that I have been dealing with the problem of relevance, not the problem of involvement: lack of "involvement," another frequent complaint of students, raises entirely different types of considerations. It is my belief that, at this time in history, the university is *not* primarily a social agency except inasmuch as education is an essential social function. As a corporate entity with employees, land holdings, real estate, it should be at all times an exemplary citizen in regard to its community, its state, the nation, and mankind. It should be a good neighbor, try in every way to minimize the "town and gown" frictions, and to further useful but limited co-operation. Direct social action is not generally the role of the University except inasmuch as separate schools (e.g., the medical school, the school of education) may run social institutions (e.g., hospitals, special education programs), or as its individual faculty members are involved in social action. I believe that it would be useful to have the liberal arts students be made more aware of these activities and offer them the opportunity to participate in these as individuals. At the same time, they should be led to understand the special role of the university and be made aware of the existence of many other types of institutions which are designed to deal with the various social problems. Urban universities have particular opportunities to guide students into participation in the work of (and if necessary into the reform of) a multiplicity of urban agencies, from those dealing with urban renewal to those dealing with recreation or adoption. If this type of orientation were effected, it would become easier to make students see that universities cannot do everything or else they will do nothing well. The students would also realize that if universities became altogether absorbed in local activities, they would become unable to perform their role as watchdogs of society, be it as critics of large-scale social programs or of national political decisions.

Such interdisciplinary study of the general problems of society, with some emphasis on the philosophy and mechanics of decision-making, would decrease what students consider to be unnecessary humiliation because of their young years. This is primarily an error in optic: we see young men and women, 17 to 22 years old, as children, or at least "adolescents," while they see themselves as adults. They have history in their favor: Joan of Arc was an Army commander at seventeen, George Washington was adjutant general of Virginia when he was twenty-one, Lafayette was a major general in the Continental Army at nineteen, commanded a division in the field at 20, was a field marshal in the French Army at 24. And, closer to us, the first and the second World War saw the mass production of teen-age officers, with many of us being entrusted with artillery batteries, infantry battalions, ships, and air squadrons while still of college age.

Peacetime illustrations of the aptitude of the young for responsible positions are easy to find. Nineteenth-century New England had a number of merchant sailing ships commanded by extremely young men. Colleges and academies used to send their graduates, often no older than sixteen or seventeen, to be surveyors and schoolmasters on the frontier. George Washington had a "commission" from William and Mary College as a surveyor at 17, and was appointed at that age public surveyor of Fairfax county. Andrew Jackson, a veteran of the Revolution at 14, became a law student at 17, and by the age of 21 was the prosecuting attorney for the Western district of the State of North Carolina (now the State of Tennessee).

Since then, of course, we have largely eliminated prolonged childhood diseases and improved child nutrition—to the extent that we have advanced the onset of menstruation in girls by at least three years and probably advanced maturation in boys correspondingly. We have increased their size by several inches. But as we have advanced the physical maturity of men and women, we have so arranged society as to deny the young any meaningful responsibility until they are twenty-five or so, and then only in a subaltern position. The situation, incidentally, is much worse for women than it is for men. We can begin to remedy this explosive situation by lowering the voting age to eighteen, giving the students *meaningful* responsibility in the running of houses or dormitories, and by exposing them to the complexities of our society in situations where they have to do the synthesizing of the information coming from a number of instructors belonging to various disciplines. Working together with several faculty members to discuss new schemes of doing things, is a much more adult situation than filling examination papers for a specialist who knows infinitely more about his subject than you ever will unless you become the same sort of specialist.

All this has consequences in terms of university governance. Colleges' and universities' governing bodies are the heirs to the Archbishop or—at best—the King. At a time when senior faculty members are involved in the management of practically every type of institution in the country, they have often little or no voice in the management of their own universities. Junior faculty members and students are excluded as well, though oddly enough students can look forward to active participation in governance when they are no longer active members of the university. It is only at graduation that they become of age and as alumni can participate in the election of trustees or overseers. It is as though the university were indeed a symbol (or a caricature) of orthodox medieval theology, where commencement represents a passage from the disenfranchised living to the communion of powerful saints, guardians, preservers, benefactors, and rulers of the Mystic Body. In the meanwhile, when still in the university they should work diligently, but in humility and obedience.

Boards of trustees and overseers are usually composed only of alumni of the college and the law school. Try as they may, they cannot have a deep understanding of the role in society of all the schools they regard as "peripheral" (education, divinty, public administration, public health), and of how well this role is filled (at present, for some schools, very poorly). They are dependent for their understanding on the university president, who himself can have only limited familiarity with these rapidly changing fields. This is not to say that alumni of the college and the law school do not have much to contribute. They are in society, and the fact that they spend most of their time making it work does not mean that they have abrogated cultural and ethical values. They should be strongly represented, but the systematic exclusion from the management of the institution, first of entire categories of alumni, and secondly of these people who are in the university *now*—including the university's most active thinkers and doers—is a curious show of distrust for democracy in the very institution that should teach our young people what democracy is all about.

The reform of the university, centered on a new role for the College of Liberal Arts, which I advocated above is unlikely to be effected well without initiating representation of the various faculties—and perhaps some representation of research fellows and students—on the governing boards. If we are going to build universities that are cohesive, where college courses and curricula will serve as a meeting-place of the professional disciplines as well as the purely academic, where education will be concerned with what society and man's endeavors are all about, there will have to be contact at the highest *decision* level between thinkers and doers from all schools and the other trustees and overseers of the university.

Talk of revolution is often an escape from reality. Restructuring of the University will take place, but it will occur (as it should) as a result of intellectual and social changes within and without its walls. The first modest step we need to take is to have a place to meet. We had the Agora of Athens, the Roman Forum, the courtyard of the Sorbonne, the cloister of Merton, the drill ground in front of Massachusetts Hall. The modern university has grown to be a modern city, without a green, without a meeting house, without a town meeting. I am suggesting that the college of liberal arts is where all of us can gather to trade ideas, to meet and make friends, young and old, and to discuss the business of the university and of the world.

MENDEL RIVERS

Mr. CANNON. Mr. President, it is with a feeling of regret that I address remarks today in memory of our close friend and colleague, Congressman MENDEL RIVERS,

whose untimely death Monday has saddened us all.

Congressman RIVERS served with great distinction as chairman of the House Armed Services Committee, the counterpart to the Senate Armed Services Committee on which I serve. During his 30 years in Congress he worked steadily and with great vigor for the best weapon systems obtainable, and participated fully in the legislative process to make their acquisition possible. His efforts have helped insure that America will be militarily second to none.

He displayed a rare combination of keen interest and effective leadership in fostering necessary Department of Defense legislation. He understood and believed in the American political processes and displayed a broad knowledge in its practice.

Congressman RIVERS was courageous; but he had another characteristic I admired: he was tenacious. When he advocated something he believed in, he could not be shaken.

In short, MENDEL RIVERS was an able legislator, and we shall miss him.

H.R. 19928 SUPPLEMENTAL APPROPRIATIONS FISCAL YEAR 1971

Mr. RANDOLPH. Mr. President, would the distinguished Senator, my colleague (Mr. BYRD of West Virginia), the Senate chairman of the conferees, yield to me for two questions concerning the conference report on the supplemental appropriations bill, 1971?

Mr. BYRD of West Virginia. I gladly yield to my colleague.

Mr. RANDOLPH. With regard to amendment No. 54 concerning the Environmental Protection Agency, am I correct in understanding that the increase recommended by the conferees is recommended for an action program to abate acid mine drainage and be coordinated with programs for correcting other land and water environmental problems in selected areas of the Monongahela River Basin?

Mr. BYRD of West Virginia. Yes; that is true.

Mr. RANDOLPH. Is it not also the recommendation of the conferees that because of their previous studies of acid mine drainage, particularly the economic impact of these problems, the Appalachian Regional Commission should direct and be responsible for the advance planning, design and initiation of such a program?

Mr. BYRD of West Virginia. Yes; the increased amount—$1 million—will permit a demonstration of an action program for cleaning up acid mine drainage with that portion of the study and demonstration relating to the potential economic development in the basin under the direction of the Appalachian Regional Commission so as to best utilize the Federal-State cooperation so vital to improve the economic and social potential of these areas.

THE SENTENCES IMPOSED IN SPAIN ON BASQUE NATIONALISTS

Mr. PELL. Mr. President, the terrible judgment handed out to the Basque nationalists by military judges in Spain cry out for action on the part of the American people and our own Government to seek clemency for them.

I urge the President and our State Department to communicate with Generalissimo Francisco Franco and ask that he take action to spare the lives of those sentenced to death and to lighten the terms of those who have, in effect, been sentenced to spend their lives in prison.

Compassion and concern for our fellow men wherever they may be, demand that this Nation make known its reprehension at the cruelty imposed in this situation. We should pray that the Spanish Chief of State stay the executioner's gun and show mercy to the condemned and sentenced men.

REMARKS BY PANAMANIAN FOREIGN MINISTER TACK ON THE PANAMA CANAL

Mr. THURMOND. Mr. President, for many years I have been saying that the only way to preserve the security of the Panama Canal is to preserve our sovereignty in the U.S. Canal Zone. It is well known that our treaties give the United States its authority in the zone "in perpetuity," granting us all the rights of a sovereign in the territory defined.

I call attention to this point once again because it is clear that the basic aim of the Panamanian Government appears to be the abrogation of our sovereignty. There is much talk about redressing the grievances of Panama; I am one who feels that much can be done to improve the relationship between our two countries. Nevertheless, it is clear that no number of concessions will appease the Panamanian nationlists without the ultimate concession of our sovereignty in the zone.

On December 15, the Panamanian Foreign Minister, Juan Antonio Tack, reiterated this point at a meeting before the American Society at the Hotel El Panama. An account of his remarks was published on December 16 in the Star and Herald newspaper of Panama City.

Foreign Minister Tack's remarks showed a basic misunderstanding of the situation. He said:

> The problems existing between our two countries were not made up by Panamanians. They arose and developed as a direct consequence of the construction and operation of the interoceanic canal in Panamanian territory. Together these problems have been of conflict between the two countries. They made it possible for mankind to benefit from the Canal. However, the situation is not so difficult to solve because all the causes of conflict can be summarized in one, that is, the existence within our own territory of a form and structure of government totally foreign to the central national government. This has been in reality the principal source of friction and all other causes of conflict have derived therefrom. Once this problem is definitely solved, all other causes of conflict will disappear immediately.

Foreign Minister Tack is here engaged in circular reasoning. He assumed the very point that he seems to be disputing. For the matter of fact is that the Panama Canal was not built in Panamanian territory; it was built in U.S. territory in the U.S. Canal Zone as is clearly shown not only by the treaty, but by the historical treatment of the problem throughout the years. What Mr. Tack is saying is that he is rejecting the historical interpretation of the treaties. The statement is an outrageous affront to our sovereignty and should be taken as a sign of the Panamanian Government's intactable position on this issue.

The statements show once more the wisdom of our Government in negotiating the 1903 treaty giving us the sovereignty in perpetuity. For if we cannot depend upon the Panamanians to accept the terms of this treaty, how can we depend upon them to accept the terms of any future agreement? Once we give up our sovereignty we will never again be able to count on the security of the Panama Canal which is so vital to our commercial and defensive operations.

Mr. Tack's statements also show the futility of the recent report of the Atlantic-Pacific Interoceanic Canal Study Commission. The Commission's report recommends a new canal through Panamanian territory instead of through the U.S. Canal Zone. Obviously such a move would be futile when the Panamanians publicly indicate that they do not intend to hold fast to the settled meaning of the treaty. If treaties with Panama can be changed by Panama's unilateral reinterpretation, then no future treaty or agreement is of much value in United States-Panamanian relations. It would be the height of folly to accept the proposals of this Commission, in as much as they would require new treaties.

In S. 2228, I have proposed the major modernization of the present Panama Canal under the present treaties using the terminal lake-third lock plan. This is the only plan which is practical from an engineering, economic, and diplomatic standpoint. It is the only plan that guarantees that we retain control of the security of the canal.

Mr. President, at this time I would like to point out that the House Subcommittee on the Panama Canal, under the capable chairmanship of the Honorable LEONOR K. SULLIVAN, has recently issued a report which demonstrates that S. 2228 is the only feasible alternative in the light of Panama's demands. The report concludes:

> It is the consensus of this Subcommittee that treaty negotiations should not go forward and that the subcommittee opposes any negotiating which would revive the 1967 treaties or initiate new treaties of a similar nature, which would be a source of confusion, irritation, and contention both here and in Panama, and which would be inimical to the best interests of the United States.

I would like to second this conclusion. Its wisdom is amply shown by the statements of Foreign Minister Tack, and I wish to take this occasion to congratulate Mrs. SULLIVAN and her subcommittee for the prudence and insight of this report.

Mr. President, I ask unanimous consent that the article from the Panama Star and Herald of Wednesday, December 16, entitled "Zone Causing Panama, United States Friction—Tack," 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:

ZONE CAUSING PANAMA-U.S. FRICTION—TACK

Foreign Minister Juan Antonio Tack said yesterday the major source of friction between the United States and Panama is the U.S.-controlled Panama Canal Zone within Panamanian territory.

"Once this problem is definitely solved," he said, "all other sources of conflict will disappear immediately."

The two countries have been negotiating a new Panama Canal treaty since 1964. Panama's revolutionary government, in power since 1968, already has rejected the draft agreements reached in 1967, which dealt with the present canal, a new sea-level canal and the defense of the waterway.

Speaking before the American Society, Tack said "excessive concern" over the security of the Panama Canal has led to the belief that "such security is achieved solely by controlling not only the C. Z., but the Republic itself in numerous aspects."

Noting that the two countries have been engaged in negotiations for six years, Tack said they should be ready now to arrive at "a just and fair agreement that will eliminate the causes of conflict between the two countries by reason of the existence of the present canal."

ECHOES TORRIJOS

Tack's statement on the Canal Zone as the major source of friction between the two countries echoed a recent pronouncement by Brig. Gen. Omar Torrijos, the country's strong man, that Panama will seek "absolute sovereignty" over the Canal Zone, which is now under United States jurisdiction. Torrijos made the statement in a television interview in Mexico City, where he headed the Panamanian delegation to the inauguration of President Luis Echevarria.

The Foreign Minister's declaration also was significant in the light of the recent recommendation by the U.S. Atlantic-Pacific Interoceanic Canal Study Commission for construction of a sea-level canal on a route lying outside the present Panama Canal Zone. The Commission, in effect, called for a second canal zone for the new route or expanding the present zone to include both, urging a two-canal system that would involve operation of the present lock waterway and the proposed sea-level canal.

BASIC GOALS

Tack said the revoluntionary regime has as its basic goal the "modernization" of the country.

"What characterizes a modern society?" he asked. "A sustained, rational economic development; the application of technology to serve man; equality of opportunity for all; administrative honesty and efficiency; availability of power, transport means and communications; adequate fiscal policy; effective social welfare covering the minimal needs of man; employment, housing, food, schools, hospitals and social security."

Addressing himself to members of the American Society, Tack added: "You are a part of our society and have a large role in national transformation. Individually and collectively, you have contributed with your work, your efforts and your ideas to national development, and I am certain the citizenry respects you and acknowledges that valuable contribution . . . You can help enormously with Panama's modernization, because you are an integral part of our country, as citizens of a great nation with which we are linked by very special ties."

SPEAKS FRANKLY

Referring to the unique character of Panama-United States relations—"it is difficult to find two countries on the American continent that have been more closely united than Panama and the United States"—Tack called for frank talking.

"To set forth frankly pending problems, on our part, doesn't mean at all adoption of an anti position. Precisely one of the characteristics of our government is that it is anti nothing, on the contrary, our government is pro. We are pro justice, pro progress, pro the juridical equality of states. And to keep on talking frankly, I must confess that one of the tragedies suffered by all Panamanians who have been directly responsible for setting forth pending problems, is that of being subjected to being called names that range from fanatic nationalists to just communists.

"But the problems existing between our two countries were not made up by Panamanians," Tack continued, "They arose and developed as a direct consequence of the construction and operation of the interoceanic canal in Panamanian territory. Together, these problems have been of conflict between the two countries that made it possible for mankind to benefit from the canal. However, the situation is not so difficult to solve, because all the causes of conflict can be summarized in one, that is, the existence within our own territory of a form and structure of government totally foreign to the central national government. This has been, in reality, the principal source of friction and all other causes of conflict have derived therefrom. Once this problem is definitely solved, all other causes of conflict will disappear immediately."

QUESTIONS UNDERSTANDING

Tack questioned whether there is understanding on the part of the United States in dealing with Panama.

"When we see, for example," he said "that the Colon Free Zone requires expansion and cannot do so through the natural place that is France Field, even though those lands are not in use; that the Trans-Isthmian Highway deteriorates daily with serious effects on Panama's commerce and industry, without any measures being taken for adequate maintenance, we wonder then that perhaps understanding between peoples has very little to do with the ties of individual friendship among persons of different nationalities.

"We Panamanians would not like to arrive at the negative conclusion," Tack added, "that understanding solves nothing, inasmuch as things that one doesn't like can be understood. Sincerely, in the 67 years of close diplomatic relations between Panama and the United States, many of the things that we Panamanians have understood have not been to our liking.

"We have understood, for example, that at times, directly or indirectly, the weakening of Panamanian nationality and the cracking up of the Panamanian state as a result of an excessive concern over the security of the Canal which leads to the belief that such security can be achieved solely by controlling not only the Canal Zone but the Republic itself in numerous aspects."

REFERS TO HISTORY

The Foreign Minister said history shows lasting alliances are possible without too much mutual understanding. He offered a concrete example: an alliance between England and Portugal that lasted 300 years, based on two factors: 1) parallel interests, clearly defined between the two countries, and 2) the opportunity for the weaker one, Portugal, to develop fully its nationality and culture.

"It would not be amiss," Tack said, "that we remember this lesson from history . . . and apply the results to the relations between Panama and the United States."

Tack then reviewed briefly the negotiations begun under sponsorship of the Organization of American States in 1964. He gave reassurances that Panama's demands are not the result of "malice or hatred" against the United States.

"We would like to believe," he added, "that after six years of negotiations, both countries are ready to comply with this mutual undertaking, entered into in 1964 . . . and that a just and fair agreement that eliminates the causes of conflict between the two countries by reason of the existence of the present Canal will be reached. This Canal and no other is the one that has brought about regrettable situations in the past, which should not be repeated . . .

"Once the new bilateral arrangement between the two countries has been attained, the present Canal also will exercise an important function in the attainment of the maximum objective of Panama's revolution, the modernization of our society."

With Minister Tack at the main table were officers of the American Society, U.S. Ambassador Robert M. Sayre and the newly appointed Deputy Foreign Minister, Dr. Carlos Ozores.

ST. MARY'S IN MARYLAND

Mr. MATHIAS. Mr. President, St. Mary's the 17th century capital of Maryland, is a place that all Americans should know. If it had nothing to commend it but a commanding view of the Potomac River and the southern Maryland countryside, it would reward the effort of a long journey. But for modern America there is a special value accorded St. Mary's because the spirit of modern America was born there. In 1649 religious tolerance was officially adopted as a basic concept of law. Margaret Brent asserted the equal rights of women in the General Assembly of Maryland. Representative government took early root here.

There is now a new chapter of St. Mary's history evolving as historians and archeologists probe the evidence of the historic past. Always a good place to visit, St. Mary's grows more and more interesting as one of the truly significant spots in American history.

Mr. President, the St. Mary's City Commission is reconstructing the historic settlement. I commend to my colleagues an article on St. Mary's City by Margaret Phillips which appeared in the Montgomery County Sentinel. I ask unanimous consent that the article be included in the RECORD.

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

CALVERT FAMILY FOUND TOLERANCE GOOD BUSINESS 300 YEARS AGO

(By Margaret Phillips)

ST. MARY'S—The replica of Maryland's first state house standing remote on a high riverbank, is neither graceful nor pretty. It resembles a fortress.

That grim resemblance is no mistake.

The 17th Century was indeed grim, religious differences splitting both the New World and the Old, the threat of Indian wars mounting, and diverse groups seeking political power in the unstructured colonial government.

Yet when the medieval-like capital was completed and occupied by its representative government in 1671 it stood unique, a monument to toleration, the first capital in the New World to symbolize legislated religious freedom.

The Old World was turbulent in those years, marked by an unprecedented execution of a king, yet glorified by the genius of an English playwright named Shakespeare and a Dutch painter named Rembrandt. The English aristocracy, seeking new wealth, extracted royal grants to colonize the attrac-

tive New World, where they were to clash with the gold-seeking Spanish and adventurous French.

George Calvert—later to become Lord Baltimore—was one of the Englishmen to obtain license in America. He bought the southeastern peninsula of Newfoundland from Sir William Vaughan and secured a charter for a colony called Avalon in 1623.

PREFERS VIRGINIA

But one trip to the planned colony discouraged him. The climate was atrocious. He decided that warmer climes were more to his liking and petitioned King Charles I for a Virginia concession.

George Calvert died and the Virginians opposed any grant. But in April 1632, the king granted his son Cecilius a charter for a 10-million acre province called Maryland, complete with the right to collect taxes, grant land, create manors, name ministers and found churches.

Cecilius, a Catholic, organized an expedition of 20 "gentlemen"—mostly Catholics—and about 200 laborers. The pioneers set sail for Maryland in October 1633 under the guidance of Cecilius' brother Leonard.

On March 27, 1634, the party found an adequately protected harbor, already-cleared fields and an agreeable climate; it became St. Marys. The settlers paid off the occupants, the Yaocomico Indians, and the first houses were built within a palisaded fort of earth and wood.

Leonard described Maryland's first settlement like this: ". . . one hundred and twentie yarde square, with fower flankes, (in which)we have mounted one peece of ordnance, and placed six murders in parts most convenient."

One of the "murders"—small cannon—still stands in St. Marys. Within 10 years St. Marys settlers had built a Catholic chapel, mill and at least seven homes, and had surveyed much of the land. In a Conditions for Plantations proclamation Cecilius directed that Maryland plantations be 1000 acres each.

TOLERANCE PAYS

The brothers Calvert, although Catholic, were good businessmen first. They made their holdings profitable by welcoming Protestants or any other immigrant eager to forsake England's religious turmoils.

In 1637, Cecilius, still in England, directed Leonard to convene a local council. At first just a figurehead panel, the council by 1650 achieved some real power, and was divided into two houses. A majority vote in both was required for passage of legislation. Generally, only landholders could vote.

By 1643 England was scourged by civil war as Puritans under the leadership of Oliver Cromwell sought to depose King Charles. Lord Baltimore, grasping the opportunity to land more settlers, proclaimed that persons of any creed would be protected in Maryland.

And on April 21, 1649, the assembly made it official by passing the Religious Toleration Act, a revolutionary document for that bloody era, considering that just three months earlier on Jan. 30 King Charles had had his head chopped off by Cromwell's cohorts.

Yet despite their historic religious liberalism, the Calverts didn't hesitate to bar Jesuits from further ownership of property. Nor did they soften their feudal landholding traditions to offset the wide economic gap developing between the noblemen and the commoners.

CIVIL WAR ERUPTS

Cromwell's new Commonwealth wasn't so tolerant. On March 29, 1652, Lord Baltimore submitted to the authority of the Commonwealth and was deprived of power in Maryland. Three years later real trouble started. Puritans deposed William Stone, a former Virginian who was a Protestant, as governor of Maryland. Civil war broke out.

The next few years were hectic and bloody for England and her colonies. Religious persecutions occurred many places, but not in Maryland. On Nov. 30, 1657, Lord Baltimore regained power, in 1660 James II was proclaimed king of England, and in 1661 Lord Baltimore's eldest son Charles was dispatched to Maryland as governor.

Meanwhile the General Assembly, meeting for years in various homes and in the fort, began seeking a permanent base.

Smith's Town House was the choice; not surprisingly it was a tavern. Legislators ate, slept, and debated in the same building when they were in session.

Despite the convivial atmosphere of the tavern, the sophistication of the assemblymen grew; the inn was beneath their dignity, many Assemblymen felt. When the tavern burned they decided that Maryland had grown big enough for a real capital.

HISTORIC ASSEMBLY

It happened in 1676. The capital was completed and Maryland's General Assembly convened, the first legislative body in the modern world to sit in a capital where religious tolerance was the law.

The same year war with the Indians broke out on the Maryland and Virginia frontiers.

St. Mary's hasn't changed much since those days. It's still a little town, Maryland's capital having moved to Annapolis in 1695. The historic state house is gone—its bricks were used to build Trinity Church in 1829—but a replica, built in 1934, stands just a short distance from the original site. The church, historic itself, stands where the old state house did.

The town has added an apostrophe to its name—St. Mary's instead of St. Marys—and about the only other really new thing is the St. Mary's City Commission now reconstructing the historic settlement.

Archaeologists have unearthed several old foundations beneath the grass, generally undisturbed since the 17th Century. The town's little college—St. Mary's College—and the Smithsonian Institution are helping.

The idea is to recreate a replica of the whole 17th Century settlement, a modern monument to Maryland's historically tolerant founders.

DEATH OF REPRESENTATIVE L. MENDEL RIVERS, OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Resolution 1319.

The PRESIDING OFFICER (Mr. MUSKIE) laid before the Senate a resolution of the House of Representatives (H. Res. 1319), which was read as follows:

Resolved, That the House has heard with profound sorrow of the death of the Honorable L. Mendel Rivers, a Representative from the State of South Carolina.

Resolved, That a committee of seventy-one Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Mr. THURMOND. Mr. President, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The resolution (S. Res. 500) was read, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Honorable L. Mendel Rivers, late a Representative from the State of South Carolina.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That, as a further mark of respect to the memory of the deceased, the Senate do now recess.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and unanimously agreed to.

The PRESIDING OFFICER. Under the second revolving clause, the Chair appoints the two Senators from South Carolina (Mr. THURMOND and Mr. HOLLINGS) as the committee on the part of the Senate to attend the funeral of the late Representative RIVERS.

RECESS TO 9 A.M. TOMORROW

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, and pursuant to Senate Resolution 500, as a further mark of respect for the Honorable L. MENDEL RIVERS, late a Representative from the State of South Carolina, that the Senate now recess.

The motion was agreed to; and (at 9 o'clock and 43 minutes p.m.) the Senate took a recess until tomorrow, December 30, 1970, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 29 (legislative day of December 28), 1970:

U.S. AIR FORCE

The following officers for appointment as Reserve commissioned officers in the U.S. Air Force to the grade indicated, under the provisions of chapters 35 and 837, title 10, United States Code:

To be major general

Brig. Gen. Clarence E. Atkinson, [redacted] FG, Delaware Air National Guard.

To be brigadier general

Col. George N. Masterson, [redacted] FG, Oklahoma Air National Guard.

Col. Raymond C. Meyer, [redacted] FG, New York Air National Guard.

Col. Walter B. Staudt [redacted] FG, Texas Air National Guard.

Col. Stanley L. Vihtelic, [redacted] FG, Michigan Air National Guard.

Col. Roland R. Wright [redacted] FG, Utah Air National Guard.

CONFIRMATION

Executive nomination confirmed by the Senate December 29 (legislative day of December 28), 1970:

DEPARTMENT OF JUSTICE

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