lowing programs: Urban renewal, model cities, homeownership—235—and rental housing—236—assistance, and rent supplement program.

This bill would increase the 1970 appropriations for urban renewal from $250 million to the authorized $650 million. The model cities appropriations of $575 million would be increased by $450 million, bringing the appropriation up to the authorized $1 billion. The $50 million appropriation to the rent supplement program would be increased to the authorized $118 million. Homeownership assistance for low-income persons—235—would be increased from $90 million to $130 million; and assistance for rental or cooperative housing for low-income families—236—would be increased from $85 million to $130 million.

These supplemental appropriations would help to relieve the present cost-squeeze on local agencies and municipalities which threatens the effectiveness of their housing programs. But the question here involves not simply the need to meet obligations incurred for housing programs of this year or of keeping faith with the agencies, municipalities, and the people who rely on them. At base, adequate funding is a matter of keeping faith with those goals set by this body more than 20 years ago and reiterated on many occasions since—"a decent home for every American." In recognition of the failure to meet this goal, the 1968 Housing and Urban Development Act projected the need for 26 million new housing units by the end of this decade. Only 2 years later, we are already falling far behind the needed rate of construction, clear evidence that the gap between what we say we want and what we are willing to back by full financial assistance is tragically wide. If Congress does not see fit to provide that adequate backing for its stated goals, the "housing gap" will continue to widen. As obligations go unmet, the road to a decent home for all Americans will continue to lengthen.

PFC. DONN LORBER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, April 6, 1970

Mr. LONG of Maryland. Mr. Speaker, Pfc. Donn Lorber, a fine young man from Maryland, was killed recently in Vietnam. I would like to commend his courage, and honor his memory by including the following article in the RECORD:

PFC. DONN LORBER DIES IN VIETNAM; LAST WROTE: "I'M PRAYING LIKE YOU TOLD ME"

In the last letter his family received in Brooklyn, Pfc. Donn M. Lorber wrote, "I'm praying like you told me."

Of his gun position near the Cambodian border, he said, "there are mosquitoes and big rats running when we sleep."

At 4 p.m. on Easter Sunday an enemy mortar scored a direct hit on Private Lorber's gun position. He died at the age of 20.

DROVE TRUCK, LAYED BRICK

He was the son of Mr. and Mrs. William G. Lorber, of 3913 Second Street, Brooklyn, and a graduate of Mergenthaler Vocational High School.

After graduation in June, 1968, he worked at two jobs: driving a truck for Hawkins Food Market in Brooklyn and laying brick for a construction company.

He was drafted six months ago, received his basic training at Fort Bragg, N.C., and went to an artillery school at Fort Sill, Okla.

BIDS PARENTS GOODBY

On February 16 he left Baltimore for California, from where he was airlifted to Vietnam five days later. As he left his parents at Friendship, he said, "If my buddies are to go, I want to be with them."

In addition to his parents, his survivors include two brothers, William J. Lorber, of Sacramento, Calif., and Larry S. Lorber, of College Park, Md., and a sister, Karen Marie Lorber, 11, of home.

THE LATE "TIC" FORRESTER

HON. O. C. FISHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1970

Mr. FISHER. Mr. Speaker, I have never known a more courageous, a more dedicated, and a more patriotic Member of this body than the late and lamented Elijah Lewis Forrester, who was known to his friends as "Tic."

This Georgia Congressman was always the same—affable, concerned, energetic, and anxious to do whatever might be good for the country he loved. He was a statesman in every sense of the word. This Nation suffers from shortage of men like "Tic" Forrester.

News of the death of this great American came as a severe blow. To me he was a personal friend who would have walked an extra mile if the occasion arose. He was a man of great honor, and the respect he commanded from all who knew him was both understandable and remarkable.

Let us hope and pray there will be more "Tic" Forresters on the American scene in the years ahead.

SENATE—*Tuesday, April 7, 1970*

The Senate met at 10 o'clock a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

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

Eternal Father, our need is our prayer this day, uttered or unexpressed. We do not pray for easy lives, but that we may be stronger men. We do not pray for tasks equal to our powers, but for powers equal to our tasks. We do not pray for simple solutions to complex problems, but rather that Thou wilt show us the next step. So wilt Thou help us to do Thy work with good courage, and to be Thy faithful servants unto our life's end.

In Thy holy name, we pray. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 6, 1970, be dispensed with.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from South Carolina (Mr. THURMOND), there be a period for the transaction of routine morning business, with a limitation of 3 minutes on statements.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar under New Report.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF THE INTERIOR

The bill clerk read the nomination of Fred J. Russell, of California, to be Under Secretary of the Interior.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, with the concurrence of the distinguished Senator from South Carolina (Mr. THURMOND), I should like to make a few unanimous-consent requests, and an announcement, without taking from his time.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 757, 758, and 759, but I do so with the stipulation that this does not apply to the Pastore rule of germaneness.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the first measure.

FEDERAL ASSISTANCE FOR PUBLIC FISH, WILDLIFE, AND RECREATIONAL PHASES OF RESOURCE CONSERVATION AND DEVELOPMENT PROJECTS

The Senate proceeded to consider the bill (S. 3598) to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes which had been reported from the Committee on Agriculture and Forestry with amendments, on page 2, line 11, after the word "engineering", insert "and other technical assistance"; in line 12, after the word "such", strike out "works of improvement" and insert "development"; and on page 3, line 2, after the word "any", strike out "development area" and insert "project"; so as to make the bill read:

S. 3598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 32(e) of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011), as amended, is amended by adding at the end thereof the following: "In providing assistance for carrying out plans developed under this title, the Secretary shall be authorized to bear such proportionate share of the costs of installing any works of improvement applicable to public water-based fish and wildlife or recreational development as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs: *Provided,* That all engineering and other technical assistance costs relating to such development may be borne by the Secretary: *Provided further,* That when a State or other public agency or local nonprofit organization participating in a plan developed under this title agrees to operate and maintain any reservoir or other area included in a plan for public water-based fish and wildlife or recreational development, the Secretary shall be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the State or other public agency or local nonprofit organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further,* That in no event shall the Secretary share any portion of the cost of installing more than one such work of improvement for each seventy-five thousand acres in any project; and that any such public water-based fish and wildlife or recreational development shall be consistent with any existing comprehensive statewide outdoor recreation plan found adequate for purposes of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897); and that such cost-sharing assistance for any such development shall be authorized only if the Secretary determines that it cannot be provided under other existing authority."

Mr. YARBOROUGH. Mr. President, it gives me great pleasure to join the distinguished senior Senator from Vermont (Mr. AIKEN), as a cosponsor of S. 3598. This bill authorizes Federal assistance for public fish, wildlife, and recreational portions of resource conservation and development projects.

This measure will benefit the people of this Nation and the citizens of the State of Texas. It authorizes the Secretary of Agriculture to bear a portion of the cost of installing public fish and wildlife or recreational developments in connection with resource conservation and development projects. It also authorizes Federal funds to be used for up to one-half the cost of the land, easements, rights-of-way, and basic public facilities needed in connection with this development.

The present law restricts the use of Federal funds in resource conservation and development projects to planning assistance and loans. This beneficial measure, of which I am a cosponsor, authorizes additional Federal assistance to provide fish, wildlife, and recreational development.

There is a great need for outdoor recreational resources throughout this Nation and this legislation will facilitate the development of these resources which are now in such critically short supply.

Resource conservation and development projects help bring about a better place for people to live, work, and play. These projects, which are carried out through cooperation between the Federal Government and local authorities, create a base not only for new jobs and higher incomes, but also for outdoor recreation and beautification of the countryside.

The potential effect of this assistance on Texas is very great. Ten R.C. & D. project applications have been submitted from Texas. These 10 projects cover 51 counties, and over 30,615,000 acres in Texas.

Mr. President, I commend the able senior Senator from Vermont (Mr. AIKEN) for his leadership in expeditiously guiding this bill, S. 3598, through committee and to the floor of the Senate.

This beneficial legislation will assist the people of Texas and the Nation. I urge my colleagues to join me in support of this measure to provide Federal assistance in developing our fish, wildlife, and recreational resources.

The amendments were considered and agreed to en bloc.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91-754), explaining the purposes of the measure.

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

This bill is essentially identical to S. 852 of the 90th Congress, as passed by the Senate on September 21, 1967. It would authorize the Secretary of Agriculture to bear—

(1) Part of the cost of installing public fish and wildlife or recreational developments in so-called resource conservation and development projects authorized by section 32(e) of the Bankhead-Jones Farm Tenant Act, and

(2) Not to exceed one-half the cost of the land, easements, rights-of-way, and minimum basic public facilities needed in connection with any such public fish and wildlife or recreational development.

At present Federal assistance under section 32(e) is limited to planning assistance and loans. Grants are not authorized for installation assistance.

The portion of the installation costs which the Secretary would be authorized to bear is "such proportionate share * * * as is determined by him to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs." This corresponds to the provision for Federal assistance for installation of public fish and wildlife and recreational developments of section 4(2)(A) of the Watershed Protection and Flood Prevention Act. The provision for the Secretary bearing up to one-half the costs of lands and minimum basic public facilities corresponds to the first proviso in section 4(1) of the Watershed Act, the objective being to provide commensurate benefits under the two programs.

The bill differs from S. 852 of the 90th Congress, as passed by the Senate, only in that where S. 852 limited the Federal contribution to $50,000 for any single work of improvement, S. 3598 limits Federal participation in installation costs to one work of improvement for each 75,000 acres in any development project. S. 3598 is modeled in this respect more closely after the corresponding provision of the Watershed Act.

BACKGROUND

The so-called resource conservation and development program was authorized by an amendment made by the Food and Agriculture Act of 1962 to the Bankhead-Jones Farm Tenant Act. The program was funded in 1963 and the first 10 projects were authorized for planning assistance in 1964. At present there are 55 projects in the operational stage and 13 in the planning stage; and 47 additional areas have requested planning assistance, with more areas applying at the rate of about 25 per year.

The program depends upon the determination and leadership of local people, and they have brought together many diverse interests for concerted action on locally developed goals.

Program measures include improved processing and marketing facilities, new and expanded industries, vocational training, tourist developments, and other actions designed to strengthen the rural economy.

NEED FOR THE BILL

In most project areas one of the greatest potentials for economic growth lies in the development of resources for outdoor recreation purposes—a resource use now in critically short supply throughout the Nation.

Many sites are suitable for multiple-purpose development—for flood prevention, municipal water supply, and recreation, but the local people lack the economic resources to develop the recreational phases of the site, so that its advantages for that purpose may be lost. The bill would provide the Secretary

of Agriculture with the authority to furnish financial help to public bodies in planning and constructing these recreation and fish and wildlife development features.

Under the provisions of the bill, the Secretary could provide engineering assistance and share in the cost of construction of public fish and wildlife or recreational developments and bear up to one-half the costs of land, easements or rights-of-way, and minimum basic facilities. It would give him essentially the same authority he now has under Public Law 566, the Watershed Protection and Flood Prevention Act. It would enable project measures to be accelerated that are truly multiple purpose including needed recreation and fish and wildlife developments.

COMMITTEE AMENDMENTS

The Committee amendments are of a purely technical nature. They would—

(1) Make it clear that the Secretary could pay costs of advisory services from technicians such as biologists, agronomists, plant material specialists, woodland specialists, soil scientists, and soil conservationists to the same extent that he could pay costs for engineering services;

(2) Make it clear that Federal payment of engineering costs would be restricted to the public water-based fish and wildlife or recreational development phases of the works of improvement;

(3) Make it clear that the entire resource and conservation project is being referred to in the limitation on the number of public water-based fish and wildlife or recreational developments for each 75,000 acres in the project, since "development" is used elsewhere in the bill to describe the fish, wildlife, and recreational phases of the project.

ADDITIONAL COSPONSORS

Mr. AIKEN subsequently said: Mr. President, earlier today the Senate passed without objection S. 3598, a bill to amend section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended, to authorize the Secretary of Agriculture to furnish financial assistance in carrying out plans for works of improvement for land conservation and utilization, and for other purposes.

At this time, in addition to the 74 sponsors of this measure, I ask unanimous consent that the names of the Senator from Wyoming (Mr. McGEE) and the Senator from Virginia (Mr. BYRD) be added as cosponsors.

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

MARKETING AGREEMENTS PROVIDING FOR THE ADVERTISING OF HAWAIIAN PAPAYAS

The bill (S. 2484) to amend the Agricutural Marketing Agreement Act of 1937 to authorize marketing agreements providing for the advertising of Hawaiian papayas was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2484

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

SECTION 1. The proviso at the end of section 8c(6)(I) of the Agricultural Adjustment Act (as reenacted by the Agricultural Marketing Agreement Act of 1937, and as subsequently amended (7 U.S.C. 608c(6)(I)), is amended by inserting "papayas," immediately after "applicable to cherries,".

The title was amended so as to read: "A bill to amend the Agricultural Marketing Agreement Act of 1937 to authorize marketing agreements providing for the advertising of papayas."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–755), explaining the purposes of the measure.

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

This bill would extend to papayas those provisions of the marketing order law which now authorize paid advertising to be provided for in marketing orders for cherries, carrots, citrus fruits, onions, Tokay grapes, fresh pears, dates, plums, nectarines, celery, sweet corn, limes, olives, pecans, and avocados. The Senate recently passed a similar bill, S. 1456, extending this authority to apples. The policy of Congress has generally been to extend this authority to any commodity for which such action is generally supported.

COST

The Department of Agriculture estimates that the annual costs to the Department for administering each new marketing order that is issued approximate $25,000.

COMMITTEE AMENDMENT

The committee amendment would amend the title of the bill by striking out the word "Hawaiian" so that the title will conform to the text of the bill.

CONGRESSIONAL RECOGNITION OF THE GODDARD ROCKET AND SPACE MUSEUM

The concurrent resolution (S. Con. Res. 49) providing for congressional recognition of the Goddard Rocket and Space Museum was considered and agreed to, as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes the Goddard Rocket and Space Museum of the Roswell Museum and Art Center, Roswell, New Mexico, as a fitting memorial to Doctor Robert H. Goddard, who pioneered in rocket experimentation and contributed to America's success in landing men on the moon, and who is known as the "Father of the Rocket", and as an appropriate and outstanding institution for the collection, preservation, and display of the works and memorabilia of Doctor Goddard.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–756), explaining the purposes of the measure.

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

PURPOSE

Senate Concurrent Resolution 49 would provide for congressional recognition of the Goddard Rocket and Space Museum of the Roswell Museum and Art Center, Roswell, N. Mex., as a fitting memorial to Dr. Robert H. Goddard, an outstanding pioneer in American rocketry. The museum already a repository of some of Dr. Goddard's memorabilia would be an appropriate and outstanding institution for the further collection, preservation, and display of his works.

BACKGROUND

The Roswell Museum and Art Center was started in late 1937 through the combined efforts of the city of Roswell, N. Mex., Chaves County Archaeological Society and the Roswell Friends of Art. The structure has grown from one gallery and a few small offices to one of 11 galleries, a workshop, planetarium, and three offices and workrooms. Much of the expansion during the last 20 years has been made possible by the finances and talents of Mr. Donald A. Anderson of Roswell, N. Mex.

As early as 1949, Mrs. Esther Goddard, widow of Dr. Robert H. Goddard, arranged for the original launching tower used in his early experiments to be brought to the area of the art center from Eden Valley and refurbished. A replica of one of the professor's rockets was placed inside the tower.

However, the idea for the Goddard Rocket and Space Museum as a wing of the Center was not conceived until 1957 when, at a dinner honoring Mrs. Goddard in Roswell, N. Mex., the subject was discussed. Mrs. Goddard agreed to make the collection of Goddard rocket memorabilia available to the Roswell Museum. Subsequent to that time, the city council of Roswell authorized the enlargement of the museum and art center to provide the necessary space for the proper display of the historic collection. On April 25, 1959, the Robert H. Goddard Rocket and Space Museum was dedicated with Dr. Wernher von Braun making the dedicatory address.

Through the efforts of many individuals, the collection of memorabilia has grown to its present size. The Daniel and Florence Guggenheim Foundation gave generously to the project; the Smithsonian Institution gave, on a long-term loan, one of the few existent complete Goddard rockets for display in the museum; and the Natioanl Aeronautics and Space Administration presented the museum with a scale replica of Dr. Goddard's first successful liquid-fueled rocket.

In 1965, the Roswell Rotary Club voted unanimously to take on as a project the reproduction of Dr. Goddard's original workshop. Equipment used in this workshop was in the possession of the Curtis-Wright Corp., and this firm generously made this historical machinery available to the museum. Through the efforts of many persons an exact replica of the workshop, even to a 1931 calendar, was constructed and dedicated in June 1969.

In conjunction with the Goddard workshop reconstruction, the Robert H. Goddard Planetarium was constructed through the efforts of Mr. Donald R. Anderson of Roswell, N. Mex. It, too, was dedicated on June 2, 1969.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of morning business today, the Senate proceed to the consideration of Calendar No. 650, H.R. 11102, and that at that time it be laid before the Senate and made the pending business.

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

LEGISLATIVE PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, after the disposal of the Carswell nomination on tomorrow, it is anticipated that the Senate, at that time, will proceed to the consideration of Calendar No. 761, Senate Joint Resolution 190, a joint resolution providing for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

I thank the distinguished Senator from South Carolina (Mr. THURMOND) for his courtesy.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Sen-

ator from South Carolina (Mr. THURMOND) is recognized 1 hour.

REVERSION OF OKINAWA TO GOVERNMENT OF JAPAN

Mr. THURMOND. Mr. President, since last November's agreement between President Nixon and Prime Minister Sato of Japan on the reversion of Okinawa, I have given this matter considerable study and thought.

Several aspects of this planned reversion are disturbing to me.

First, there is no clear recognition by the executive branch of the right of the Senate to advise and consent on Okinawa reversion—despite the Senate's expression on this matter.

Second, there are compelling military reasons against reversion before a reduction in military operations in the Far East is made, and political stability is restored.

Third, with the reversion of Okinawa, the Japanese should incur certain clear-cut responsibilities for the maintenance of mutually-supporting economic policies between the United States and Japan. To a great extent, the U.S. open-door trade policy and the continuing umbrellas of U.S. military protection contributed to Japan's amazing industrial recovery. Today, Japanese imports threaten portions of our economy, and the time has come to talk of mutually supporting trade policies as well as reversion of old territories.

Mr. President, let me comment on these disturbing aspects briefly.

With regard to the Senate's wish to advise and consent on reversion, this was made plain November 5, 1969, when the Senate approved, 63 to 14, the amendment of the distinguished senior Senator from Virginia (Mr. BYRD). This amendment read as follows:

> It is the sense of the Senate that any agreement or understanding entered into by the President to change the status of any territory referred to in Article 3 of the Treaty of Peace with Japan, shall not take effect without the advice and consent of the Senate.

The strength of the vote supporting the Byrd amendment speaks for itself, but the point is driven home even more firmly when one realizes that both the chairmen of the Senate Armed Services and Foreign Relations Committees supported the Byrd amendment, and of the membership from the two committees only five dissenting votes were cast.

With regard to military arguments against reversion, I cite our commitment to our allies in the Far East, and the safety of our forces in Vietnam, as being inconsistent with the relinquishment of our unrestricted use of Okinawa through reversion.

This opinion is greatly fortified by the presently deteriorating situation in Cambodia and Laos which could result not only in the removal of two neutralist governments but could further endanger our fighting men in South Vietnam.

While it is true the "specific arrangements" referred to by President Nixon and Mr. Sato in the communique on their meeting might soften the impact of reversion, Okinawa would nevertheless come under the 1960 Treaty of Security and Cooperation executed by the two nations at the close of the Eisenhower administration.

This means simply that the United States could not place nuclear weapons of any type on Okinawa, and would have to obtain permission of the Japanese Government before conducting combat operations from the island.

The 1960 Security Treaty, which now applies to our forces on Japan, contains this prior consultation clause. Its significance may be illustrated by the *Pueblo* incident in which immediate support from our military aircraft was required. Aircraft were launched from Okinawa to aid the *Pueblo* but it was nightfall before they reached the critical area. Before planes could have been launched from our bases in Japan, bases which were much closer to the location of the *Pueblo*, prior consultation would have been required with the Japanese Government. Although Japan may well have approved such a request, the time lost in these procedures would have certainly been critical to the crew of the *Pueblo*.

Mr. President, we come to the third disturbing aspect of reversion—our trade with Japan and the necessity for mature, mutually supporting policies. How can we consider Japan as a partner of equal stature and responsibility in a territorial agreement when she refuses to negotiate an economical matter that is weakening both the economy and defense capability of the United States? The situation created by Japanese textile imports has reached critical proportions in the American textile industry, forcing me, last March 20, to introduce legislation to protect it.

I will discuss this aspect in more detail later.

Mr. President, in addition to the aspects of Okinawa reversion which I have just discussed, there are other important considerations. Not the least of these is the attitude of the American people as reflected in a poll by the Harris survey.

Following the announcement that reversion had been agreed to between President Nixon and Mr. Sato, the Harris survey took a poll and found 50 percent of the American people opposed reversion. Of the remaining 50 percent, some 26 percent favored return of Okinawa to Japan and 24 percent said they were not sure.

In this same poll, which was published throughout the Nation on December 22, 1969, those contacted were asked if they felt the United States should encourage or discourage Japan to have a greater role in the Pacific. Forty-two percent said they favored encouraging Japan to take a greater role and 31 percent said they should be discouraged. The remaining 21 percent were not sure how they would stand.

As I have indicated, Mr. President, the question of reversion of Okinawa is rather complex. We gained Okinawa under the Peace Treaty with Japan which was ratified by the Senate with a vote of 66 to 10 in 1952. While the Okinawa question stems from this treaty, reversion would put the island under the Mutual Security Treaty between the United States and Japan, which was signed in 1960.

The Okinawa issue is also tied to our treaty commitments in Southeast Asia, the political and economic atmosphere in Japan and other matters. At this time I would like to take a detailed look at these various subjects one by one. The order in which I discuss them follows:

First. Okinawa-United States involvement.

Second. U.S. treaty obligations.

Third. Military importance of Okinawa.

Fourth. 1960 Mutual Security Treaty Between the United States and Japan.

Fifth. United States-Japanese economic picture.

Sixth. Why reversion now?

Seventh. Crisis in Laos and Cambodia.

Eighth. Byrd amendment on Okinawa.

Ninth. Nixon-Sato agreement.

First, let us take a look at how and why this vast base was established in the Pacific by the United States.

1. OKINAWA-UNITED STATES INVOLVEMENT

American involvement in Okinawa dates back to the Second World War when U.S. forces invaded and seized the island from the Japanese. Our landing was made on Easter Sunday, April 1, and in the next 3 months we lost 12,520 men and had 36,631 wounded. Although the Ryukyu Islands had been administered as an integral part of Japan since 1879, the United States, in planning for the post-war period, decided on separating them from Japanese jurisdiction, along with stripping Japan of most of its island possessions.

Language to this end was incorporated into the Potsdam Declaration of July 26, 1945. The Big Three stated that Japanese sovereignty after the war would be limited to the four home islands "and such minor islands as we determine."

Subsequently, the Japanese Peace Treaty of 1951 divided Japan's island possessions into two distinct categories. Under article II, Japan renounced "all rights, title, and claim" to a number of islands and island groups, including Formosa and the Pescadores, the Kuriles—part of which Japan presently claims from the Soviet Union—Sakhalin, and the Central Pacific islands held by Tokyo in prewar days under League of Nations mandate.

Article III dealt with the second category, which included the Ryukyus. It reads in full:

> Japan will concur in any proposal of the United States to the United Nations to place under its trusteeship system, with the United States as the sole administering authority, Nansei Shoto south of 29° north latitude (including the Ryukyu Islands and Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island. Pending the making of such a proposal and affirmative action thereon, the United States will have the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of these islands, including their territorial waters.

In explaining the treaty to the delegates at the San Francisco conference, John Foster Dulles, the President's rep-

resentative at the conference, described Japan's relationship to the Ryukyus as one of "residual sovereignty" and emphasized that article III conferred no obligation on the United States to have the islands placed under United Nations trusteeship.

Dulles took a further step in a letter to the Government of India of August 25, 1951. He not only asserted that the pact left the future of the Ryukyus to subsequent determination, but also omitted the word "residual" in describing the islands as remaining under Japanese sovereignty. In short, while giving Japan no specific commitment to return the Ryukyus, Dulles held out the possibility of reversion.

Throughout his 8 years in office, General Eisenhower followed this general line of policy. During this period Japan joined the United Nations and thus removed the trusteeship issue, since under the Charter of the United Nations, the world body cannot impose trusteeship on the territory of a member state. By this time Okinawa had become the largest U.S. military base complex in the Western Pacific, and the Eisenhower administration linked the future disposition of the Ryukyus to security considerations in East Asia.

While the United States-Japanese Security Treaty of 1960 avoided any specific commitment on Okinawa, it did reaffirm Japan's residual sovereignty over the Ryukyus. This was shortly followed by the first explicit statement of American intent to return administrative rights to Japan when President Kennedy declared on March 19, 1962:

> I recognize the Ryukyus to be a part of the Japanese homeland and look forward to the day when the security interests of the free world will permit their restoration to full Japanese sovereignty.

President Johnson reaffirmed his predecessor's position in a joint communiqué issued with Prime Minister Sato on November 16, 1967, in which they stated the two governments should keep under joint and continuous review the status of the Ryukyu Islands, guided by the aim of return administrative rights over these islands to Japan and in the light of their discussions.

Although both men pledged eventual reversion of the Ryukyus to Japan, neither set a specific date. Moreover, they generally held to President Eisenhower's linkage of the islands' future with East Asian security.

2. U.S. TREATY OBLIGATIONS

Mr. President, the United States has extensive treaty obligations in the Far East. In the past I have called for a review of these obligations and this should be done before we implement steps such as the reversion of Okinawa.

I ask how can we fulfill our commitments in the Far East without the unrestricted use of Okinawa that we now enjoy? We have extensive commitments in this area beginning with the 11-nation Southeast Asia Treaty Organization and including the Australia-New Zealand-United States ANZUS Treaty, and the bilateral defense pacts with the Republic of China, 1954; South Korea, 1953; and the Philippines, 1951.

Many here in the Senate feel we are overcommitted in Southeast Asia and throughout the world. This is certainly a valid argument. President Nixon has called upon our Asian allies to bear a greater burden in the defense of that area, and this is a view in which I subscribe wholeheartedly. For too long we have borne the brunt of the burden of preserving the peace in eastern Asia as is testified by our losses in Korea and Vietnam.

The President is to be commended for directly calling upon our allies in that area to shoulder more of this burden, but I question seriously the weakening of our position in Okinawa until we see some demonstration of the willingness and the ability of our allies to assume this responsibility.

To carry out the commitments under these treaties we have stationed some 1 million men in this area; we have spilled the blood of our soldiers in Korea and now Vietnam, and we have spent billions of our Nation's dollars to support this effort. I do not believe this sacrifice has been in vain; nor do I wish to see it jeopardized by unwise steps.

Two of our strongest allies in the Far East, South Korea and Nationalist China, feel the unrestricted use of Okinawa is tied directly to their own national security. Prime Minister Sato recognized in the communique that the defense of these two countries was closely tied to that of Japan. He made some very clear statements in a speech before the National Press Club regarding the security of South Korea. Such a view is encouraging, but the full interpretation or implementation of these expressions is something else again.

It seems to me a review of our treaty obligations and possible adjustments should precede the reversion of Okinawa to Japan. I do not see how we can carry out our treaty obligations if Okinawa comes under the Treaty of Mutual Cooperation and Security which now covers mainland Japan. Military operations from Okinawa would be at the discretion of the Japanese Government. To allow such a situation now would be dangerous indeed.

To date our Government has not advocated the scrapping or changing of our commitments in Southeast Asia. Therefore, until something of this nature takes place, it would be sheer folly to place in jeopardy our use of Okinawa.

Oddly enough Japan itself would have a great deal to lose if the U.S. presence in Southeast Asia is weakened. This is used as an argument in favor of reversion. Fortunately, the present Prime Minister of Japan and the majority of the Members of the Japanese Diet recognize this fact, but what assurance do we have this government will continue to take such a stance?

Japan is a free nation with the right to determine its own course. That such is the case reflects credit upon the United States and its handling of this former enemy. The Sato government is strong today, more so than ever due to the reversion agreement. But who is to say what the future holds?

At present Japan depends upon the United States to guarantee its safety from external attack. This is a situation of our own making, one which deserves review prior to any major changes in U.S. posture in the Far East. While the Japanese are gradually assuming a greater defensive role, it is minimal compared to the burden borne by the American people. Japan is spending less than 1 percent of its gross national product on defense while the United States is spending from 7 to 8 percent of its gross national product for a defense which in part protects Japan.

3. MILITARY IMPORTANCE OF OKINAWA

The importance of Okinawa as a means to meet our treaty obligations in the Far East and in providing for the security of Hawaii and this country cannot be overemphasized.

Okinawa's strategic geographic location makes it virtually impossible to replace. It lies approximately 800 miles from Seoul, 800 miles southwest of Tokyo, 750 miles northeast of Manila, 325 miles from Taipei and 700 miles northeast of Hong Kong.

None of its functions—nearby staging base, logistics and administrative base, vital communications and surveillance link and visible indication of our power to deter—can be duplicated by relocation to other places in the Pacific. No other routing of communications in the Pacific will give us the reliability now achieved through Okinawa, nor can our readers provide proper warning from fallback positions. The critical reaction time, area of coverage, relative security, and present invulnerability to foreign political control can neither be matched nor duplicated by relocation to any other base or combination of bases in the Pacific.

This relatively small island has become the keystone of our Asian security system because of our willingness to make a multibillion-dollar investment in the more than 100 military facilities there. This willingness to make such a large investment was based upon the knowledge of continued unrestricted use of these facilities.

This country maintains what American military officials refer to as a $1 billion complex on Okinawa. About 110 square miles—or 25 percent of the total land surface—have been appropriated for 120 bases on an island three-eighths the area of Rhode Island. Added to a population of 900,000 Okinawans are approximately 40,000 U.S. troops. The United States spends about $260 million annually in Okinawa—in addition to official U.S. Government aid of about $24 million.

This tiny island has played a significant role in the Vietnam war, serving as a transient point for Vietnam-bound troops and as a vast warehouse for American supplies and weaponry. Our B–52 bombers en route from Guam to Vietnam have been refueled by tankers from the Kadena Air Base; and in January 1968, following the *Pueblo* incident, the Air Force moved some of the B–52's from Guam to Okinawa. This cut their flight time to Vietnam in half, and the distance from 2,500 to 1,300 miles.

Okinawa also serves as a fueling and supply station for American activities in

Asia, including combat operations in Vietnam. A counterguerrilla warfare school, extensive warehouses and military hospitals and the computer center for Vietnam logistics are located on the island. The 5,620-acre Kadena Air Base is one of the largest Air Force installations in Asia and is able to handle an almost unlimited number of all types of U.S. planes. Special forces train for Vietnam in the Okinawan jungles; the Marines have a division headquarters; and the Navy operates several ports. Psychological warfare operations, radio monitoring, intelligence operations, Voice of America broadcast facilities to the Asian mainland—all are located on Okinawa.

Okinawa's military importance to the United States has been stressed by high military and civilian officials of the United States. The outgoing American commander of the island, Lt. Gen. F. T. Unger, said in Tokyo in January 1969:

> Nowhere else in Asia does the United States have complete freedom to station, deploy and support balanced forces equipped with the full range of modern military resources. Only on Okinawa can we station any type of weapons or units. Only from Okinawa can we deploy forces to any threatened area in Asia. Only through Okinawa can we provide unrestricted logistical support to forces committed anywhere. These freedoms give our forces on Okinawa a flexibility and responsiveness unmatched anywhere in Asia.

The island's strategic value was also pointed up in a House Armed Services Committee report of September 1967:

> First, and more important, Okinawa, the largest island, is by any measure our most important single military base in the Far East. Without it radical changes would have to be made in virtually every element of our military structure. Loss of it would induce a chain reaction which would affect not only every aspect of our defensive and offensive capability in the Pacific but would require major modifications in military establishments far removed from Okinawa and from the Pacific itself. Its importance to the United States from a military standpoint cannot be overemphasized.

The various alternatives to military basing in the Pacific are not appealing. Moving forward to Formosa or Korea would have political implications nearly as complicated as the subject of Okinawa reversion itself. Moreover, the stationing of strategic forces so close to a possible forward battle area is a distinct liability.

The extent to which the United States could fulfill its military commitments to Japan, Taiwan, Korea, the countries of the Southeast Asia Treaty, the Philippines, Australia, New Zealand plus the protocol states of Laos and Vietnam after having been denied the use of bases on Okinawa is highly debatable, particularly if we must attempt to do so from a fallback position.

4. 1960 COOPERATION TREATY

In view of the recent developments concerning Okinawa and President Nixon's agreement to bring Okinawa under the 1960 Treaty of Cooperation and Security with Japan, it would be well to take a brief look at this treaty.

The United States and Japan concluded the Security Treaty of 1960 at the initiative of the Tokyo government. President Eisenhower had planned to visit Japan for the signing of the treaty but street demonstrators protesting its provisions prevented him from making this trip. Essentially the treaty strengthened the American commitment to defend Japan against external attack. The first paragraph of article V read:

> Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

While placing the U.S. commitment in firmer language, the new pact deemphasized Japan's "obligation" to rearm by referring to the two countries' constitutional provisions—meaning in effect, article IX, of the Japanese Constitution. Article III of the Security Treaty stated:

> The Parties, individually and in cooperation with each other by means of continuous and effective self-help and mutual aid will maintain and develop, subject to their constitutional provisions, their capacities to resist armed attack.

The 1960 Security Treaty also strengthened the prior consultation clause. Article IV declared:

> The Parties will consult together from time to time regarding the implementation of this Treaty and, at the request of either Party, whenever the security of Japan or international peace and security in the Far East is threatened.

Further, this country gave a specific pledge on prior consultation through an exchange of notes between Premier Kishi and Secretary of State Christian Herter:

> Major changes in the deployment into Japan of the United States armed forces, major changes in their equipment, and the use of facilities and areas in Japan as bases for military combat operations to be undertaken from Japan other than those conducted under Article V of the said Treaty, shall be the subjects of prior consultations with the Government of Japan.

Thus, with this brief examination of the 1960 treaty we can get an idea as to what would be involved when it applied to Okinawa.

At this point I wish to inject that on June 23 of this year the 10-year period of the treaty expires.

At present it appears to be the desire of both countries to allow the treaty to continue in its present form, but if allowed to do so it would be subject to termination by either side in a 12-month period.

5. UNITED STATES-JAPAN ECONOMIC PICTURE

Mr. President, in this country we are in a period of close examination of our world commitments and the necessary costs to fulfill them. This issue relates directly to the economic health of the United States and is even more critical in that we are suffering from inflation as a result of policies during the past decade.

In some measure the high defense costs we have been paying have resulted from the heavy burdens we have assumed in the Far East in an effort to preserve the rights of the people in that area to a free choice of their government. The action of the North Vietnamese is aiding the Vietcong to overthrow the government in South Vietnam, and the dispatch of their own troops into South Vietnam, has been the chief cause of the huge costs we have borne in recent years.

However, the American people have also paid a high price to insure the safety of Japan, a strong and valued ally. We have provided the Japanese with a U.S. nuclear umbrella in an area where force of arms seems to be the chief instrument of national policy.

The result of this effort has been a straining American economy while Japan has been free to accelerate its industrial growth with little requirements for providing for its own defense. This is amply illustrated by Japan's expenditure of $1.3 billion for defense in fiscal year 1969 and $1.5 billion in fiscal year 1970. This amounts to .84 percent of Japan's gross national product in 1969 and even less in 1970, when the Japanese defense expenditure fell to .78 percent of their gross national product. In fiscal year 1969 the United States spent 8.7 percent of its gross national product for defense and in fiscal year 1970 spent 8 percent. For fiscal year 1971 it is estimated the United States will spend 7 percent.

As the Okinawa question is discussed in this country, people are quite properly asking the question as to why we should be giving up our unrestricted use of Okinawa to Japan while at the same time guaranteeing the safety of Japan and our other allies in the Far East.

Japan is certainly in a strong economic position as evidenced by the growth of its gross national product from $24 billion in 1955 to an estimated $200 billion this year. Their growth rate over the past 10 years has averaged 12 percent as against 4 percent in this country. This tremendous growth has resulted in part from restrictive trade policies through which Japan prevents many imports from coming into their nation while at the same time they are flooding U.S. and world markets with goods of all types.

In just the past 10 years their exports have risen from $3.5 billion in 1959 to $15.7 billion in 1969. Of this amount the United States allowed $4.9 billion of Japanese exports to come into this country in calendar year 1969, resulting in a trade deficit with Japan of $1.4 billion. This trade deficit was especially harmful in view of our Nation's already critical balance-of-payments problems.

While the United States-Japanese trade question is a subject of great complexity and too involved to address at length here, there is no doubt present conditions favor Japan. This situation is not in the best interests of the economic health of the United States, and is even more unrealistic when you weigh it against the fact we are guaranteeing Japan's defense and thereby strengthening their hand in the area of trade between the two countries.

Especially hard hit by this trade situation is the U.S. textile industry. In my State of South Carolina alone, thousands of workers have been laid off in recent years as the direct result of flooding of this country with low-wage Jap-

anese textile imports. This crisis has accelerated in the past 6 months.

Other industries in this country have similar problems and the best efforts of the Nixon administration to bring about corrective action have failed.

Last month I introduced legislation to correct this situation as it applies to textiles, and in my opinion the Congress will act soon to apply controls which will liquidate this unfavorable trade problem.

6. WHY REVERSION NOW?

One might ask why the question of reversion of Okinawa to Japan has evolved at this point in time. The answer may be found in the political situation in Japan, where some opponents of the Sato government have continually taken an anti-American stance and have used Okinawa and American bases in Japan proper as the cutting edge for their attacks.

These forces, largely nationalist but fomented in part by a small but militant Communist Party, rioted in 1960 when the Eisenhower administration was negotiating the present security treaty. They opposed the treaty and succeeded in forcing President Eisenhower to abandon his plans to visit Japan in 1960 for the actual signing.

The treaty reflected Japan's lack of interest in rearming and thus showed the continued strength of postwar pacifist feelings among the Japanese people. While leftist, ideologically tinted thinking—as embodied in the Japan Socialist Party, labor unions, and student and intellectual groups—strongly opposed the 1960 treaty, the pact actually reaffirmed Japan's noninvolvement in the cold war in Asia, even if it did not veer the country directly toward a neutralist or pro-Communist foreign policy as advocated by these groups.

Since that time the Socialist Party has continued pressure on the government to demand reversion of Okinawa and reduce American military bases and personnel on the main island.

This situation found its genesis after World War II. As a result of American occupation following the atomic bombing of Hiroshima and Nagasaki, the Japanese people adopted an attitude of pacifism. To some degree this resulted from the American policy of demobilization and democratization in the early stages of the occupation.

Opposition to nuclear weapons became an important element in Japanese pacifism, and every government since World War II has upheld three nonnuclear principles: Nonproduction, nonpossession, and no storing of atomic weapons on Japanese soil. This principle is now being applied to Okinawa in keeping with the agreement between President Nixon and Prime Minister Sato.

Interacting with the force of pacifism is leftist opinion. The rigidly Marxist-oriented Japan Socialist Party has consistently received around one-third of the vote in national elections. The base of Socialist Party strength rests in the trade union movement and among intellectual and student groups. Neither its foreign policy positions nor its hardcore backing has changed significantly since its formation in 1955. The Socialists picture America's containment policy, including the Vietnam war, as aggressive and provocative toward Communist China and other Asian Communist states. Leftist propaganda portrayed the U.S. air campaign against North Vietnam as the white man's aggression against Asians. They argue that Japan can best avoid war by abrogating the United States-Japanese Security Treaty and by demanding that the United States dismantle its bases in Japan. The Socialists have consistently opposed proposals that Japan rearm, fearing that such a course would tighten bonds with Washington.

The Socialists have repeatedly attacked the existence of the Japanese self-defense forces as being in violation of article IX of their Constitution and accuse the ruling Liberal Democrats of attempting to drag Japan into a war through remilitarization.

Added to the leftist forces has been the reemergence of national self-confidence in Japan in the form of a new nationalism. This has meshed with those other forces that wish to limit the country's association with the United States. This new nationalism looks toward a reassertion of Japan's role in Asia but not necessarily in full conjunction with American policy. It can be seen in the rising demand among all political factions for the return of Okinawa to Japan.

This nationalism, however, is also changing Japanese public opinion in that they are now more inclined to support a larger self-defense force. Further, recent polls reveal that between 20 and 25 percent of the Japanese people favor acquiring nuclear weapons for their own defense.

The leftist element in Japan has continued to pressure the Japanese Government on the Okinawa issue and the Security Treaty. Besides the close ethnic and cultural ties with Okinawa, the Japanese have gradually increased their demands for reversion until in 1968 Prime Minister Sato said reversion could no longer be delayed.

About this time the Japanese Government issued the results of a nationwide poll showing 80 percent of the Japanese people favored reversion as soon as possible and they claimd a similar consensus among the people on Okinawa.

Thus reversion became a big political issue and Sato's ability to accomplish it was seen as a key if he was to be assured of success in the elections of 1969. This pressure was further accelerated by riots from leftist groups in early 1969.

The Nixon administration apparently saw reversion as compatible with our mutual defense and treaty obligations in the Far East. President Nixon also placed great importance on strengthening the friendly Sato government which it was felt would face other important issues of U.S. interest in the early 1970's.

Thus, the approval in principle of reversion for Okinawa was reached in the Nixon-Sato talks in November of 1969, and Sato's Liberal Democratic Party was returned to power in December of last year for a 4-year period, by an even greater vote than in previous elections.

7. CRISIS IN LAOS AND CAMBODIA

Mr. President, the critical nature of the Okinawa issue has been drawn into sharper focus in the past few weeks because of the deteriorating situation in that part of the world.

Our commitment in Vietnam and Korea alone should be sufficient to require continued unrestricted use of Okinawa but now we are confronted with a rapidly changing situation in Cambodia and Laos.

The crisis in Cambodia and Laos today was not present when President Nixon and Prime Minister Sato met and issued their communique last November. If the crisis in these two countries had taken place last October, I do not see how the United States could have agreed to reversion of Okinawa in November.

In Cambodia, Prince Sihanouk was deposed last month, and North Vietnamese and Vietcong troops have attacked Cambodian border outposts and generally threatened the security of the new leaders.

The new government in Cambodia, which has declared itself as a neutral, has been forced to enlist many of its young men from colleges into hastily formed military units in order to assure its defense. The Cambodian leaders have also stated that if the military situation continues to deteriorate they would be compelled to request weapons and equipment from friendly countries. At the same time, they have ruled out the use of foreign troops to fight the Communists in Cambodia.

In Laos, North Vietnamese troops have pushed across the Plain of Jars once again and the neutralist government is in a difficult situation. Some U.S. supplies and equipment, as well as air support, have been given to the Government of Laos at their request.

The United States has no legal obligation to send troops into either Laos or Cambodia, and both Governments have indicated they wish to handle the crisis without such help.

However, should either country fall to the North Vietnamese forces, the U.S. position in Vietnam would be much more difficult. While it is hoped the situation will develop in such a way that the neutralist governments of both countries can be maintained, we must be prepared to take steps to protect U.S. forces in Vietnam in the event that they are threatened by developments in Cambodia or Laos.

In such a circumstance our unrestricted use of Okinawa would be necessary for the safety of our fightingmen in the Far East.

8. BYRD AMENDMENT ON OKINAWA

Mr. President, last November the distinguished senior Senator from Virginia (Mr. BYRD) introduced an important amendment to H.R. 12964, which read as follows:

It is the sense of the Congress that the President shall not enter into any agreement or understanding, the effect of which would change the status of any territory referred to in Article 3 of the Treaty of Peace with Japan, without the advice and consent of the Senate.

The purpose of this amendment was to insure the U.S. Senate had the opportunity to consider any change to this treaty which it ratified in 1952.

Senator BYRD stated:

If the Senate is to fulfill its Constitutional responsibility in the field of foreign policy, it must make clear that any change in the Treaty of Peace with Japan must be ratified by the Senate.

During the discussion of this amendment, I had the opportunity to speak in its support, and I was pleased that the Senate agreed with the Byrd amendment, and passed it by a vote of 63 to 14.

The feeling in the Senate was clear that the issue of Okinawa was not solely an executive decision. Unfortunately, President Johnson in 1968 returned the Bonin Islands to Japan without consulting with the Senate, although they were secured under the same article as was Okinawa.

The Byrd amendment passed just prior to Prime Minister Sato's visit last year. Its passage was properly recognized in the communique issued by the two leaders.

This recognition was evidenced in a sentence of the communique which followed the agreement to immediately enter into consultations regarding specific arrangements for accomplishing the early reversion of Okinawa. Quoting directly from the communique, it read as follows:

They further agreed to expedite the consultations with a view to accomplishing the reversion during 1972, subject to the conclusion of these specific arrangements with the necessary legislative support.

Senator BYRD felt this part of the communique adequately recognized the Senate's role in the matter, and that any specific arrangements reached in the discussions and the revision itself would come before the Senate for approval or disapproval.

However, my distinguished colleague from South Carolina (Mr. HOLLINGS) did not feel this language was clear enough so he wrote President Nixon on November 25, 1969, asking for clarification.

In his reply on January 9, 1970 President Nixon stated:

Let me assure you that the Executive Branch will continue to maintain close contact with the Legislative Branch in order to work out mutually satisfactory arrangements for handling the problem of Okinawa revision, including the appropriate form of Congressional participation in this matter.

Mr. President, I am encouraged on this point by the views of Senator BYRD, and I also find reason for encouragement in the correspondence from the President to Senator HOLLINGS, particularly since it came in January of this year.

This point is important, because in a press briefing by a high State Department official following the issuance of the communique last November, this official stated the Department had not yet taken a position on what they would consider necessary legislative support. This remains true today.

The official said other possibilities besides ratification by the Senate were present and he mentioned specifically a joint resolution.

He further stated the issue would not really be faced until the specific arrangements called for in the agreement were completed. He pointed out negotiations of these arrangements would be long and detailed, and under the best of circumstances he did not foresee their end until the middle of 1977 at the earliest.

Mr. President, it should be noted that these remarks were made prior to the letter of January 9, 1970, to Senator HOLLINGS. It also should be noted that they were made by a high official of the same State Department that told President Johnson he did not have to seek the advice and consent of the Senate when he returned the Bonin Islands to Japan in 1968.

The situation is somewhat different now, in that we have the presence of a strong expression by the Senate on this matter, and recognition of that expression in the communique. However, it should be noted that neither the communique nor the letter from President Nixon referred specifically to seeking the advice and consent of the Senate.

9. NIXON-SATO AGREEMENT

Mr. President, that brings us up to the agreement between President Nixon and Prime Minister Sato last November. The Nixon-Sato communique was issued here in Washington on November 21, 1969.

The key points in the communique as it applies to Okinawa may be found in points 4 through 11. It would be useful at this time to briefly examine the content of these paragraphs in the communique.

An examination will show that items 4, 5, and 6 are most important to an understanding of the meaning of the communique.

In item 4 both Governments recognized the importance of the security of the Republic of Korea and the Republic of China to the security of their own nations, Prime Minister Sato seeing the security of South Korea as "essential" to Japan's own security. This statement was most significant and was further strengthened in a speech by Mr. Sato before the National Press Club. In this speech he said the importance of Korea to the security of Japan would dictate a positive reply from Japan under any prior consultation clause between the United States and Japan, should Korea be attacked.

Further in item 4, President Nixon spoke of the earnest efforts of this country to secure a just peace in Vietnam and both expressed the hope the war would be concluded before reversion. In the event the war was not concluded by 1972, then the two leaders agreed their Governments would "fully consult with each other in the light of the situation at that time so that reversion could be accomplished without affecting the U.S. efforts to assure the South Vietnamese people the opportunity to determine their own political future without outside interference."

Mr. Sato also stated in this section that the Japanese people were exploring ways in which they could play some role toward bringing stability to the Indochina area.

Mr. President, item 4 of this agreement is quite important, for it provides consultation on our use of Okinawa as it relates to Vietnam prior—and I emphasize prior—to reversion. This could be critical to our ability to meet our obligations in this area if the war in Vietnam is still in an active phase. Unfortunately, the fulfillment of our other treaty commitments in the Far East are not given similar importance.

In paragraph 5 of the communique, we find another important element of the agreement. This is the expression on the part of both powers that the Security Treaty of 1960 be continued in effect. It should be noted that this is the first formal reaffirmation by both Governments of their intention to continue the 1960 treaty indefinitely. Without such an agreement, reversion of Okinawa would be out of the question. However, it should be recognized, under the extension, that either Government can withdraw from the treaty on 12 months' notice, as is the case with most of our other treaties.

Thus, we are faced with the possibility that a change in the political situation in Japan could result in the renunciation of the 1960 Security Treaty and thereby seriously affect our position on Okinawa. This risk must be weighed against our refusal to grant reversion and the subsequent weakening of relations with an important ally such as Japan.

In item 6, the President and Sato agreed that the mutual security interests of the two countries could be accommodated within the arrangements for the return of Okinawa to Japan. In this connection, they agreed to begin immediate talks regarding specific arrangements for the early reversion of Okinawa to Japan, with a view of completing the accomplishment of this goal during 1972.

It was further agreed, in item 6, that Japan would gradually assume the responsibility for the defense of Okinawa but that the United States would retain, under the terms of the Treaty of Mutual Cooperation and Security, such military facilities and areas in Okinawa as required for the mutual security of both countries.

Perhaps the key point in item 6 is the specific recognition of the importance of U.S. bases and personnel in Okinawa and their direct relationship to the security of ourselves and our allies in the Far East. In the middle of this paragraph is the point Senator BYRD referred to on November 25, 1969. This point is that the communiqué provides that the two governments will enter into consultations regarding the specific arrangements before the reversion date. This is followed by a very important statement that the reversion target date would be 1972, and, "Is subject to the conclusion of these specific arrangements with legislative support."

The extent of the entire agreement was tightly drawn in item 7 in which the United States agreed that, upon the return of the administrative rights, "the Treaty of Mutual Cooperation and Security and its related arrangements would apply to Okinawa without modification thereof." Later in this item, Mr. Sato did

state that in this connection it was agreed that the security of Japan could not be adequately maintained without peace in the Far East. He said further, in view of this point, the return of administrative rights to Japan "should not hinder the effective discharge of international obligations assumed by the United States for the defense of countries in the Far East, including Japan.

In item 8, Mr. Sato described the sentiment in Japan against nuclear weapons; and President Nixon stated:

Without prejudice to the position of the United States government with respect to the prior consultation system under the Treaty of Mutual Cooperation and Security, the reversion of Okinawa would be carried out in a manner consistent with the policy of the Japanese Government as described by the Prime Minister.

In item 9, the two leaders took cognizance of the financial and economic problems involving American businesses in Okinawa which would result from reversion, and decided to conduct detailed discussions toward their resolution.

In items 10 and 11, President Nixon and Prime Minister Sato outlined their plans for implementing this agreement and expressed their belief that it will further strengthen the friendship and security of both countries.

Of course, the key section of the agreement is item 6, in which the agreement is made to bring about reversion. This part of the agreement also alludes to the "necessary legislative support" for reversion.

In summary, the agreement lays the groundwork for reversion of Okinawa to Japan in the form of granting administrative rights to the Japanese; provides that any nuclear weapons on Okinawa would be removed prior to 1972; allows that Okinawa would come under the Treaty of Mutual Cooperation and Security which now governs our military relationship with the main islands of Japan; provides for the continuation of American bases in Okinawa in that they assure the defense of both countries; announces the intention of both governments to continue the 1960 Security Treaty; and grants prior consultation with Japan regarding the use of any such bases in combat operations throughout the Far East.

The latter point is covered in the section of the agreement which states Okinawa would come under the Cooperation Treaty which now deals only with Japan. Under this treaty, the United States agrees to prior consultation before conducting any U.S. combat operations from mainland Japan or any significant buildup of weapons at our bases on mainland Japan.

At present the United States has unrestricted use of Okinawa, but after reversion this would not be the case, as the Cooperation Treaty would apply and we would be faced with the same restrictions we now operate under on the main island of Japan. U.S. military men have found these conditions restrictive in Japan.

At this point it may be well to state that both Governments agree that prior consultation means that the agreement of the Japanese is necessary for combat operations, but the Japanese reserve the right to say yes or no after such consultation.

It should be noted that both leaders expressed the hope that some of the problems present today may not be with us in 1972 when the reversion agreement is executed. This is a hope in which we all would share, but on which we cannot plan our national security. In conclusion, Mr. President, last year, prior to the Nixon-Sato talks, Secretary of State Rogers visited Japan and conferred with the Prime Minister. He urged Mr. Sato to pay more attention to Japan's military responsibility, but the Japanese Prime Minister made it clear that he was still looking to this country to guarantee the safety of Japan and Okinawa.

In view of our military commitments in Southeast Asia and the other issues I have discussed here today, and especially the worsening situation in Laos and Cambodia, it does not seem wise from a military view for the United States to agree to reversion of Okinawa now or in the near future. In my opinion, this is the feeling of a number of the Members of the Senate. It is certainly the majority opinion among the American public.

Three things could take place which would ease my concern in this matter.

First, a clear declaration from the Nixon administration that it would seek the "advice and consent" of the Senate on the question of reversion, and not just legislative support or a resolution. This would certainly be in keeping with President Nixon's often expressed desire to consult with the Congress on matters of such importance.

Second, a significant improvement in the political stability of the Far East, together with a reduction in military operations there. This would mitigate some of the compelling military arguments against early reversion.

And third, the Japanese would adopt more amenable and mutually supporting trade policies with the United States. This could ameliorate the threatened disintegration of the U.S. textile industry, which obviously will weaken our economy.

Barring the realization of these three developments, which I have just described, the reversion of Okinawa to Japan in 1972 is, in my judgment, not in the best interests of the United States.

Mr. BYRD of Virginia. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I am happy to yield to the the Senator from Virginia.

Mr. BYRD of Virginia. Mr. President, I have been tremendously interested in the very able address just made by the distinguished senior Senator from South Carolina (Mr. THURMOND).

I know that a great deal of hard work went into this matter. It seems to me that the distinguished Senator has rendered a splendid service in calling the attention of the Senate and the Nation to the vital problems involved in regard to our greatest military base complex in the far Pacific; namely, Okinawa.

I associate myself with the belief and the feeling of the distinguished Senator from South Carolina that a substantial number of Members of the Senate are deeply concerned about this matter. As a matter of fact, I have been surprised, in private conversations, that certain Senators have expressed a keen interest in the fact that Okinawa should not revert to the Japanese as long as we have the great commitments we have in the far Pacific.

The distinguished Senator from South Carolina points out that, in his judgment, probably a large majority of the American people would not favor giving up the unrestricted right of this country to use Okinawa as we think best, as long as we have such heavy commitments.

In my judgment, the Senator from South Carolina is on sound ground in that assumption.

I spoke last night to a large audience in the western part of Virginia and I mentioned the subject of Okinawa. As I go about Virginia discussing the great matters which affect our Nation, I find great interest in Okinawa.

I want to say, just as the distinguished Senator from South Carolina has said, that it seems to me to be very important—I repeat, very important—that any agreements which are made by our Nation with Japan affecting the treaty of peace, which was ratified by the Senate, or any change in its status, must come back to the Senate for approval or disapproval.

The Senate itself is on record by an overwhelming vote on the adoption of a sense-of-the-Senate resolution last November to this effect.

I was very much encouraged by the communique issued by President Nixon and Prime Minister Sato. I was further encouraged, as the Senator from South Carolina pointed out in his address, by the correspondence between the junior Senator from South Carolina (Mr. HOLLINGS) and President Nixon.

I believe that the administration will submit to the Senate, for approval or disapproval, any change in the treaty of peace with Japan. To do otherwise would run directly counter to the expressed will of the Senate, which is a partner with the President in establishing foreign policy.

I think it would be helpful, as the distinguished and able Senator from South Carolina pointed out in his magnificent address, if the Government would take the three steps which he recommends, first, a clear declaration from the Nixon administration that it would seek the advice and consent of the Senate on the question of reversion. I think it would be well if that were done. I have faith, however, that the administration plans to do that.

I think that the communique between our Government and the Japanese Government involving Premier Sato's visit clearly indicates this. But I think it would be well, as the distinguished Senator from South Carolina suggests, that that should be made even clearer.

The PRESIDING OFFICER (Mr. ALLEN). The time of the Senator from South Carolina has expired.

Mr. THURMOND. Mr. President, I

ask unanimous consent to proceed for 3 additional minutes.

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

Mr. BYRD of Virginia. If we are going to guarantee the freedom of Japan, of the Philippines, of all the SEATO nations, and Australia and New Zealand, if we are going to do that, then it seems only logical that we must retain the unrestricted right to our greatest military base, which is Okinawa.

Thus, I am very much pleased to be in the Chamber today and to associate myself with the distinguished Senator from South Carolina who has taken such a keen interest in this problem and who has done so much to focus attention on the importance of Okinawa.

Mr. President, I believe that as more of the American people know the subject, the more they ponder and consider it, the more firmly will they hold to the belief that there should be no change in the status of Okinawa until the Senate has had an opportunity fully to explore any suggested change and approve or disapprove.

Once more, I commend and associate myself with the distinguished and able Senator from South Carolina.

Mr. THURMOND. Mr. President, I wish to thank the distinguished Senator from Virginia for his remarks.

The able Senator from Virginia has given a geat deal of thought and study to this subject. He is one of the best informed men in this country on this particular topic.

As a member of the Armed Services Committee, he has had an opportunity to go into this matter from a military standpoint and from the standpoint of the security of the country.

What he says on this subject should be given close attention not only by the Senate but also by the American people.

I might say again that the poll I was referring to showed that 50 percent of the American people oppose—I repeat, oppose—returning Okinawa to Japan. Only 26 percent favor returning Okinawa, and the other 24 percent are uncommitted or undecided.

I think this clearly reveals how the American people feel on this subject.

It is my sincere hope that the administration will follow the steps I have outlined in this address. I fear it would be nothing less than a calamity to see Okinawa returned without following the proper procedures.

Again I wish to commend the able Senator from Virginia for his pertinent and significant remarks.

Mr. President, I ask unanimous consent that the following three articles be placed in the RECORD following these remarks: First, the Harris survey which appeared in the Washington Post on December 22, 1969; second, an article entitled "Japan's Drive To Outstrip United States," which appeared in the March 1970 issue of the U.S. News & World Report; and third, the joint communique between President Richard Nixon and His Excellency Prime Minister Sato of Japan, of November 21, 1969.

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

[From the Washington Post, Dec. 22, 1970]

THE HARRIS SURVEY: 50 PERCENT DISLIKE U.S. RETURN OF OKINAWA

(By Louis Harris)

Despite the fact that agreement has been reached in principle between President Nixon and Japanese Premier Eisaku Sato, the American people are opposed to the United States giving Okinawa back to Japan by a margin of 50 to 26 per cent.

Originally Japanese territory, Okinawa was taken over by the United States after World War II and since then has been used by this country as a major Pacific military installation.

A cross-section of 1,798 people was recently asked:

"Do you feel that the United States should give Okinawa back to the Japanese or not?"

RETURNING OKINAWA TO JAPAN

[In percent]

	Give back	Don't do it	Not sure
Nationwide	26	50	24
By Region:			
East	27	43	30
Midwest	45	37	18
South	19	55	26
West	34	51	15
By Education:			
8th grade or less	16	50	34
High school	22	55	23
College	40	41	19

The public was also asked:

"Do you feel the United States should encourage or discourage Japan to have a greater role in the Pacific?"

GREATER ROLE FOR JAPAN IN PACIFIC

[In percent]

	Encourage	Discourage	Not sure
Nationwide	42	37	21
By region:			
East	44	31	25
Midwest	45	37	18
South	31	46	23
West	54	34	12
By Education:			
8th grade or less	25	48	27
High School	30	40	30
College	61	25	14
By Race:			
White	44	37	19
Black	28	40	32

These results clearly indicate that not only are there many lingering doubts in this country about seeing Japan grow in power in the Pacific, but that some extensive public education will have to take place before the American people view with favor the return of Okinawa to the Japanese.

[From the U.S. News & World Report, Apr. 6, 1970]

JAPAN'S DRIVE TO OUTSTRIP UNITED STATES

TOKYO.—Japan, adding more and more muscle to its economic miracle, is convinced that it can and will replace the U.S. as the richest nation in the world.

From the defeat and devastation of World War II, this island realm of 103 million people has climbed to third place among industrial powers, outranked only by the U.S. and the Soviet Union, and is driving boldly and confidently ahead.

Japanese ambitions are unconcealed. The energetic islanders are clearly determined to be *Ichiban*—Number One. Many Japanese leaders believe that the goal can be reached in this century.

"Within 30 years," says one economic prophet, "Japan will not only have overtaken Russia but the U.S. as well."

Others, more cautious, say that it may take 50 years. But among experts—in both Asia and the West—there is agreement that Japanese competition confronts the U.S. with the toughest challenge it has ever had.

The charts on these pages show the phenomenal growth and global scope of Japan's booming economy.

Sales territory: the world. On every continent, evidence of Japanese achievement is dramatic. In America, such products as Sony and Panasonic television sets and radios, Honda motorcycles, Toyota and Datsun autos are becoming commonplace. Young Australians, aware of their country's significant trade ties with Japan, are learning Japanese. West Germans are buying Japan's cameras. In places as far apart as Afghanistan and Bolivia, rugged Japanese trucks outsell the competition.

Japanese salesmen, tireless and aggressive, are working the whole world, from Sverdlovsk to San Francisco.

Consider this: Japan's annual output is nearly triple that of all Africa, one and a half times that of Latin America, greater than that of all the rest of Asia, excluding China.

For the future—Japanese growth projections are impressive.

Total economic output this year is expected to reach about 200 billion dollars. This is about one fifth of the U.S. level. But Japan's growth rate over the last 10 years has averaged about three times that of the U.S.—12 per cent annually vs. 4 per cent, in real terms. If Japan can maintain this rate, its output is expected almost to double in the next five years and nearly to quadruple in 12 years.

As Japan consolidates its position as an economic superpower, predictions are heard that it will surpass the U.S. not only industrially but in standard of living.

Among indicators of Japan's great industrial strides are these:

For 14 years, the Japanese have led the world in shipbuilding. Nearly half of all new tonnage in 1969 was launched in Japanese shipyards.

In the last decade, Japanese automobile production has jumped from seventh to third place in the world.

Some steelmakers here believe that Japan's output could hit 160 million tons in 1975, surpassing both the U.S. and Russia.

The Japanese now use more computers than any other country except the U.S. and West Germany. By 1985, planners say, Japan will be using as many computers per capita as the U.S.

The good life gets better. The tremendous economic thrust already is producing unprecedented prosperity.

Many Japanese consumers no longer are content with what they once regarded as status symbols—cars, color TV, air conditioners. The desire now is for such things as electronic ovens, central heating and weekend cottages.

Japanese are spending as never before on travel and recreation. Guam and Hawaii are becoming favorite destinations for honeymoon couples and vacationing businessmen. Golf clubs have long waiting lists for membership. Sports centers—from bowling alleys to ski resorts—are jammed. Even private flying clubs are becoming popular.

Japan has not been altogether transformed, of course. Substandard housing, inadequate sewage disposal, bad roads are just a few of the problems. Under the system of national priorities, these have had to wait. Industry came first. Now, however, social-investment needs are commanding attention as national wealth increases.

Japan's "economic miracle"—15 years of explosive growth—and more to come

[Total spending in Japan—gross national product—in billions of dollars]

1955	24
1963	68
1970 (est.)	200
1975 (est.)	375

Westerners often ask how the Japanese have managed to come so far so fast.

Many factors are involved. One misconception is that cheap labor is the key to Japan's industrial success. The fact is that labor costs are lower in many other parts of Asia. Those other Asian countries—whose supplies of raw materials exceed those of Japan—have not come close to matching Japanese development.

While Japanese pay scales are generally lower than in the West, they are at European levels in such fast-growing categories as steel and machinery.

Among elements of Japan's success are freedom from heavy expenditures for defense—because the U.S. provides Japan's outer defense perimeter; a skillful, disciplined force, and an ability to adapt the best in borrowed technology. But there is another, major element, rarely mentioned by the Japanese themselves. That is the national "team spirit" which overrides dividing lines among Govrenment, business and labor.

Unique motivation. A U.S. businessman who knows Japan well explains that spirit this way:

"At home, Japanese compete keenly against each other. But abroad, they all appear to be on the same team. They are bold and confident because they know that not only their own company but all Japanese firms and banks and Government officials will stand behind their deal.

"All Japanese work first and foremost for the 'national family'—the 'Rising Sun family.' That's not true of the Americans, the British, the West Germans and others. Consequently, a Japanese company is more competitive than its foreign rivals, no matter how big they are."

Japan's team spirit is seen in the operations of the country's giant conglomerate.

These huge financial combines, so carefully pulled apart by the conquerors during the U.S. occupation just after the war, have been carefully reassembled and are stronger than ever. Ways in which they use their strength amplify Japan's economic punch.

Search for raw materials. It is standard procedure, for example, for conglomerates to organize special task forces to comb the world for raw materials that Japan needs. Right now, 28 of these forces are developing sources of petroleum, copper, nickel, uranium and aluminum.

Until recently, foreign capital was the mainspring of Japanese expansion. It still is important. But in 1969, Japan turned a corner and became a net capital exporter.

The nation's investment abroad now amounts to about 2 billion dollars. It is expected to soar to 10 billion by 1980.

Moving into Australia. A good example of Japanese methods in the drive for economic aggrandizement is seen in Australia.

Advance groups of Japan's economic warriors arrived "down under" less than 10 years ago. They had no ready cash. But they did have industrial facilities at home in need of raw materials, markets to be filled—and long-term purchasing contracts in hand. Says a top Australian executive:

"We could take those contracts to any banker in the world and get the money we needed to dig our minerals out of the ground. The more the Japanese contracted for, the more we found. And the more we found, the more they bought."

Japanese commitments to buy Australian iron ore, bauxite and coal over the next 15 years now add up to 2.5 billion dollars, and new deals are still being made. In addition, Japan has become the main buyer of Australian wool and has moved ahead of Britain to become second only to the U.S. as a supplier of Australia's imports.

Some comments by Australians on what they regard as the economic "battle of the century" between Japan and the U.S.:

A mining man: "Do Americans really know they are getting into the toughest competition they've ever had?"

Another mining expert:

"Most American steel companies seem slow to understand that the huge ore bodies and coal fields we have found here have changed the industrial geopolitics of the world. The Japanese understand it."

From still another Australian: "Instead of messing around with low-grade ore carried long distances by slow trains to antiquated inland mills, the Japanese are taking our high-grade ore to ultramodern plants situated on the deep-water highroads of the world."

An economist:

"The Japanese started with small ore carriers, soon shifted to 70,000-ton ships, now use 100,000-tonners and are urging us to prepare for 300,000-ton vessels. Using methods like this, they can undersell American steel everywhere in the world, including the United States."

FIRM CONTROLS

Government control over the economy is a key element in the Japanese success story.

Thus, "sunset" industries such as cotton textiles and soap get minimum attention from Government planners. Instead, new investment is poured into "sunrise" industries—those with the greatest growth potential.

Under this system, growth rates of 30 per cent or more in each of the past five years have been racked up in production of cars, trucks, color-TV sets, synthetic rubber and several chemicals. The "sunrise" industries of the '70s include computers, aircraft, electronic goods, and products related to housing, nuclear power, and oceanography.

An Australian businessman asserts:

"The Japanese are running rings around the Americans in steel, aluminum and electronics. They will soon be doing the same thing in control systems, major industrial equipment, even computers."

Japan's economic-growth rate is now at least double that of any other advanced nation. For the past 15 years, its trade has been expanding at twice the world rate.

Some warnings. Can that pace be maintained? Economists here point to some possible roadblocks. For example—

Japan's ambitious targets may be unacceptable to trading partners who are increasingly concerned about deficits in their trade with Japan. Also, there is grumbling about Japanese competitive practices and about Japan's calls for free trade everywhere while it is acting very slowly to lower its own barriers.

A dispute over exports of Japanese woolens and synthetic textiles threatens to result in U.S. protectionist retaliation. A trade war involving the U.S. would be extremely damaging to Japan. The American market absorbs 30 per cent of Japanese exports.

Asian nations are increasingly resentful of what they see as a determination by Tokyo to have them remain primarily suppliers of raw materials and markets for Japanese finished goods. The influential Tokyo newspaper "Yomiuri" warns:

"Japan cannot hope to live down its reputation as an economic animal unless she corrects her excessively commercial attitude toward Asian nations."

Danger in nationalism? Another thing that worries some Japanese is the possible effect of the accelerated rise in nationalism on the country's future.

Defense forces are getting more attention. The munitions industry is reviving again. Some observers believe that Japan's acquisition of nuclear arms is just a matter of time. The fear of some Asian countries that Japan may dominate them militarily as well as economically contributes to doubts about the durability of friendly ties. Indonesia's Foreign Minister, Adam Malik, has said, "In the '70s, I think Japan would be more of a vexing problem than Communist China."

In Japan, much is made of this 2,000-year-old nation's "racial purity" and of the need for national unity to cope with a hostile world. This alarms some outsiders. But Japanese at home believe the alarm is exaggerated or groundless and that Japan's growth and influence as an industrial and financial—not military—power will go forward unchecked.

Whatever happens in the future, Japan has shown that its economic system is not only efficient but dynamic and aggressive, geared to goals of higher and higher productivity.

JOINT COMMUNIQUE BETWEEN PRESIDENT RICHARD NIXON AND HIS EXCELLENCY PRIME MINISTER SATO OF JAPAN

1. President Nixon and Prime Minister Sato met in Washington on November 19, 20 and 21, 1969, to exchange views on the present international situation and on other matters of mutual interest to the United States and Japan.

2. The President and the Prime Minister recognized that both the United States and Japan have greatly benefited from their close association in a variety of fields, and they declared that guided by their common principles of democracy and liberty, the two countries would maintain and strengthen their fruitful cooperation in the continuing search for world peace and prosperity and in particular for the relaxation of international tensions. The President expressed his and his government's deep interest in Asia and stated his belief that the United States and Japan should cooperate in contributing to the peace and prosperity of the region. The Prime Minister stated that Japan would make further active contributions to the peace and prosperity of Asia.

3. The President and the Prime Minister exchanged frank views on the current international situation, with particular attention to developments in the Far East. The President, while emphasizing that the countries in the area were expected to make their own efforts for the stability of the area, gave assurance that the United States would continue to contribute to the maintenance of international peace and security in the Far East by honoring its defense treaty obligations in the area. The Prime Minister, appreciating the determination of the United States, stressed that it was important for the peace and security of the Far East that the United States should be in a position to carry out fully its obligations referred to by the President. He further expressed his recognition that, in the light of the present situation, the presence of United States forces in the Far East constituted a mainstay for the stability of the area.

4. The President and the Prime Minister specifically noted the continuing tension over the Korean peninsula. The Prime Minister deeply appreciated the peacekeeping efforts of the United Nations in the area and stated that the security of the Republic of Korea was essential to Japan's own security. The President and the Prime Minister shared the hope that Communist China would adopt a more cooperative and constructive attitude in its external relations. The President referred to the treaty obligations of his country to the Republic of China which the United States would uphold. The Prime Minister said that the maintenance of peace and security in the Taiwan area was also a most important factor for the security of Japan. The President described the earnest efforts made by the United States for a peaceful and just settlement of the Viet-Nam problem. The President and Prime Minister expressed the strong hope that the war in Viet-Nam would be concluded before

return of the administrative rights over Okinawa to Japan. In this connection, they agreed that, should peace in Viet-Nam not have been realized by the time reversion of Okinawa is scheduled to take place, the two governments would fully consult with each other in the light of the situation at that time so that reversion would be accomplished without affecting the United States efforts to assure the South Vietnamese people the opportunity to determine their own political future without outside interference. The Prime Minister stated that Japan was exploring what role she could play in bringing about stability in the Indochina area.

5. In light of the current situation and the prospects in the Far East, the President and the Prime Minister agreed that they highly valued the role played by the Treaty of Mutual Cooperation and Security in maintaining the peace and security of the Far East including Japan, and they affirmed the intention of the two governments firmly to maintain the Treaty on the basis of mutual trust and common evaluation of the international situation. They further agreed that the two governments should maintain close contact with each other on matters affecting the peace and security of the Far East including Japan, and on the implementation of the Treaty of Mutual Cooperation and Security.

6. The Prime Minister emphasized his view that the time had come to respond to the strong desire of the people of Japan, of both the mainland and Okinawa, to have the administrative rights over Okinawa returned to Japan on the basis of the friendly relations between the United States and Japan and thereby to restore Okinawa to its normal status. The President expressed appreciation of the Prime Minister's view. The President and the Prime Minister also recognized the vital role played by United States forces in Okinawa in the present situation in the Far East. As a result of their discussion it was agreed that the mutual security interests of the United States and Japan could be accommodated within arrangements for the return of the administrative rights over Okinawa to Japan. They therefore agreed that the two governments would immediately enter into consultations regarding specific arrangements for accomplishing the early reversion of Okinawa without detriment to the security of the Far East including Japan. They further agreed to expedite the consultations with a view to accomplishing the reversion during 1972 subject to the conclusion of these specific arrangements with the necessary legislative support. In this connection, the Prime Minister made clear the intention of his government, following reversion, to assume gradually the responsibility for the immediate defense of Okinawa as part of Japan's defense efforts for her own territories. The President and the Prime Minister agreed also that the United States would retain under the terms of the Treaty of Mutual Cooperation and Security such military facilities and areas in Okinawa as required in the mutual security of both countries.

7. The President and the Prime Minister agreed that, upon return of the administrative rights, the Treaty of Mutual Cooperation and Security and its related arrangements would apply to Okinawa without modification thereof. In this connection, the Prime Minister affirmed the recognition of his government that the security of Japan could not be adequately maintained without international peace and security in the Far East and, therefore, the security of countries in the Far East was a matter of serious concern for Japan. The Prime Minister was of the view that, in the light of such recognition on the part of the Japanese Government, the return of the administrative rights over Okinawa in the manner agreed above should not hinder the effective discharge of the international obligations assumed by the United States for the defense of countries in the Far East including Japan. The President replied that he shared the Prime Minister's view.

8. The Prime Minister described in detail the particular sentiment of the Japanese people against nuclear weapons and the policy of the Japanese Government reflecting such sentiment. The President expressed his deep understanding and assured the Prime Minister that, without prejudice to the position of the United States Government with respect to the prior consultation system under the Treaty of Mutual Cooperation and Security, the reversion of Okinawa would be carried out in a manner consistent with the policy of the Japanese Government as described by the Prime Minister.

9. The President and the Prime Minister took note of the fact that there would be a number of financial and economic problems, including those concerning United States business interests in Okinawa, to be solved between the two countries in connection with the transfer of the administrative rights over Okinawa to Japan and agreed that detailed discussions relative to their solution would be initiated promptly.

10. The President and the Prime Minister, recognizing the complexity of the problems involved in the reversion of Okinawa, agreed that the two governments should consult closely and cooperate on the measures necessary to assure a smooth transfer of administrative rights to the Japanese Government in accordance with reversion arrangements to be agreed to by both governments. They agreed that the United States-Japan Consultative Committee in Tokyo should undertake overall responsibility for this preparatory work. The President and the Prime Minister decided to establish in Okinawa a Preparatroy Commission in place of the existing Advisory Committee to the High Commissioner of the Ryukyu Islands for the purpose of consulting and coordinating locally on measures relating to preparations for the transfer of administrative rights, including necessary assistance to the Government of the Ryukyu Islands. The Preparatory Commission will be composed of a representative of the Japanese Government with ambassadorial rank and the High Commissioner of the Ryukyu Islands with the Chief Executive of the Government of the Ryukyu Islands acting as adviser to the Commission. The Commission will report and make recommendations to the two governments through the United States-Japan Consultative Committee.

11. The President and the Prime Minister expressed their conviction that a mutually satisfactory solution of the question of the return of the administrative rights over Okinawa to Japan, which is the last of the major issues between the two countries arising from the Second World War, would further strengthen United States-Japan relations which are based on friendship and mutual trust and would make a major contribution to the peace and security of the Far East.

12. In their discussion of economic matters, the President and the Prime Minister noted the marked growth in economic relations between the two countries. They also acknowledged that the leading positions which their countries occupy in the world economy impose important responsibilities on each for the maintenance and strengthening of the international trade and monetary system, especially in the light of the current large imbalances in trade and payments. In this regard, the President stressed his determination to bring inflation in the United States under control. He also reaffirmed the commitment of the United States to the principle of promoting freer trade. The Prime Minister indicated the intention of the Japanese Government to accelerate rapidly the reduction of Japan's trade and capital restrictions. Specifically, he stated the intention of the Japanese Government to remove Japan's residual import quota restrictions over a broad range of products by the end of 1971 and to make maximum efforts to accelerate the liberalization of the remaining items. He added that the Japanese Government intends to make periodic reviews of its liberalization program with a view to implementing trade liberalization at a more accelerated pace than hitherto. The President and the Prime Minister agreed that their respective actions would further solidify the foundation of overall U.S.-Japan relations.

13. The President and the Prime Minister agreed that attention to the economic needs of the developing countries was essential to the development of international peace and stability. The Prime Minister stated the intention of the Japanese Government to expand and improve its aid programs in Asia commensurate with the economic growth of Japan. The President welcomed this statement and confirmed that the United States would continue to contribute to the economic development of Asia. The President and Prime Minister recognizes that there would be major requirements for the postwar rehabilitation of Viet-Nam and elsewhere in Southeast Asia. The Prime Minister stated the intention of the Japanese Government to make a substantial contribution to this end.

14. The Prime Minister congratulated the President on the successful moon landing of Apollo XII, and expressed the hope for a safe journey back to earth for the astronauts. The President and the Prime Minister agreed that the exploration of space offers great opportunities for expanding cooperation in peaceful scientific projects among all nations. In this connection, the Prime Minister noted with pleasure that the United States and Japan last summer had concluded an agreement on space cooperation. The President and the Prime Minister agreed that implementation of this unique program is of importance to both countries.

15. The President and the Prime Minister discussed prospects for the promotion of arms control and the slowing down of the arms race. The President outlined his Government's efforts to initiate the strategic arms limitation talks with the Soviet Union that have recently started in Helsinki. The Prime Minister expressed his Government's strong hopes for the success of these talks. The Prime Minister pointed out his country's strong and traditional interest in effective disarmament measures with a view to achievement of general and complete disarmament under strict and effective international control.

THE WHITE HOUSE.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. In accordance with the previous order, the Senate will now proceed to the transaction of routine morning business.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON PROPERTY ACQUISITIONS OF EMERGENCY SUPPLIES AND EQUIPMENT

A letter from the Director of Civil Defense, Washington, D.C., reporting, pursuant to law, on property acquisitions of emergency supplies and equipment, for the quarter ended March 31, 1970; to the Committee on Armed Services.

REPORT ON DISBURSEMENTS BY SMALL BUSINESS ADMINISTRATION

A letter from the Administrator, Small Business Administration, Washington, D.C., reporting, pursuant to law, on disbursements made by that Administration, dated April 1, 1970; to the Committee on Banking and Currency.

CONTINUANCE OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1968

A letter from the Secretary of State, transmitting a draft of proposed legislation to continue until the close of September 30, 1973, the International Coffee Agreement Act of September 30, 1973, the International Coffee Agreement Act of 1968, with an accompanying paper; to the Committee on Finance.

LAWS ENACTED BY THE LEGISLATURE OF THE VIRGIN ISLANDS

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, copies of laws enacted by the Legislature of the Virgin Islands in its 1969 Special and Regular Sessions, with accompanying papers; to the Committee on Interior and Insular Affairs.

PROPOSED GRANT AGREEMENT WITH THE UNIVERSITY OF PITTSBURGH

A letter from the Deputy Director, Bureau of Mines, Washington, D.C., transmitting, pursuant to law, a proposed grant agreement with the University of Pittsburgh, Pittsburgh, Pa., for a research project entitled "Development of an Air Quality Simulator for Coal Mines," with accompanying papers; to the Committee on Interior and Insular Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A joint resolution of the Legislature of the State of Idaho; to the Committee on Agriculture and Forestry:

"SENATE JOINT MEMORIAL NO. 114

"A joint memorial to the honorable Senate and House of Representatives of the United States in Congress assembled, and the honorable congressional delegation of the State of Idaho

"We, your Memorialists, the Senate and House of Representatives of the state of Idaho assembled in the Second Regular Session of the Fortieth Idaho Legislature, do respectfully represent that:

"Whereas, the family farm is one of the mainstays of the Idaho economy, and

"Whereas, the family farm has come to depend on operating loans advanced by the Farmers Home Administration, and

"Whereas, the Farmers Home Administration has exhausted its available supply of loan funds for family farms, and

"Whereas, there is still a pressing need for operating loans for family farms in Idaho, and these family farms cannot secure credit from any other source, and

"Whereas, this vital loan service could be made available by an act of Congress.

"Now, therefore, be it resolved by the Second Regular Session of the Fortieth Idaho Legislature, the Senate and House of Representatives concurring, that we most respectfully urge the Congress of the United States to make additional funds for operating loans for family farms available to the Farmers Home Administration as soon as possible.

"Be it further resolved that we respectfully urge our congressional delegation to continue their fine efforts toward obtaining this additional appropriation for the Farmers Home Administration.

"Be it further resolved that the Secretary of the Senate be, and he is hereby authorized and directed to forward certified copies of this Memorial to the leadership of the Senate and House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States.

"ARTHUR WILSON,
"Secretary of the Senate."

A concurrent resolution of the legislature of the State of New Jersey; to the Committee on Interior and Insular Affairs:

"SENATE CONCURRENT RESOLUTION NO. 29

"A concurrent resolution memorializing the Congress of the United States to enact legislation providing for the creation of a national park in the Palisades region of New Jersey

"Whereas, The Palisades region of New Jersey has the utmost scenic and historical value not only to the people of the State of New Jersey but to the people of the United States as a whole; and

"Whereas, The peace and beauty of this region is being seriously threatened by uncoordinated and uncontrolled physical and economic development; and

"Whereas, The Federal Government has a responsibility to preserve and protect scenic and historic sites which belong to all the people of the United States; now, therefore,

"Be it resolved by the Senate of the State of New Jersey (the General Assembly concurring):

"1. That the Congress of the United States be, and it is hereby, respectfully memorialized to consider the enactment of legislation designating as a National Park such portions of the Palisades region of the State of New Jersey as it may deem necessary to preserve and protect the scenic and historical values of that area.

"2. The Secretary of the Senate shall cause duly authenticated copies of this resolution to be sent to the President of the United States, the Clerk of the House of Representatives and the Secretary of the Senate of the United States, to each member of the Congress elected from the State of New Jersey, and to the Secretary of the Department of the Interior.

"HENRY H. PATTERSON,
"Secretary of the Senate."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations, with amendments:

S. 3430. A bill to amend further the Peace Corps Act (75 Stat. 612), as amended (Rept. 91–759).

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

S. 1814. A bill to provide for public ownership of the mass transit bus system operated by D.C. Transit System, Inc., to authorize interim financial assistance for the company pending public acquisition of its bus transit facilities; and for other purposes (Rept. No. 91–760).

By Mr. MILLER, from the Committee on Finance, without amendment:

H.R. 8654. An act to provide that, for purposes of the Internal Revenue Code of 1954, individuals who were illegally detained during 1968 by the Democratic People's Republic of Korea shall be treated as serving in a combat zone (Rept. No. 91–762).

By Mr. LONG, from the Committee on Commerce, with an amendment:

H.R. 12605. An act to amend section 613 of the Merchant Marine Act, 1936, as amended (Rept. No. 91–764).

FEDERAL EMPLOYEES SALARY ACT OF 1970—REPORT OF A COMMITTEE (S. REPT. NO. 91–763)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported an original bill (S. 3690) to increase the pay of Federal employees, and submitted a report thereon, which bill was placed on the calendar and the report was ordered to be printed.

AUTHORITY TO FILE REPORT ON S. 3685 "EMERGENCY HOME FINANCE ACT OF 1970" (S. REPT. NO. 91–761)

Mr. SPARKMAN. Mr. President, from the Committee on Banking and Currency I report an original bill (S. 3685) to increase the availability of mortgage credit for financing of urgently needed housing, and for other purposes. I ask unanimous consent that the Committee on Banking and Currency have until midnight tonight to file a report on the bill together with minority and supplemental views.

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

BILLS AND A JOINT RESOLUTION INTRODUCED OR REPORTED

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

By Mr. BROOKE:

S. 3682. A bill for the relief of Robert E. Hastings; to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. SCHWEIKER) by request:

S. 3683. A bill to amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; to make improvements in chapter 37 of such title; and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. DODD:

S. 3684. A bill to establish within the Department of State a United States Passport Service; to the Committee on Foreign Relations.

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

By Mr. SPARKMAN:

S. 3685. A bill to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes; placed on the calendar.

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

By Mr. KENNEDY (for himself and Mr. MATHIAS):

S. 3686. A bill to amend title 5 of the United States Code to establish the Federal Administrative Justice Center to enhance the quality of administrative law operations in the United States; to the Committee on the Judiciary.

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

By Mr. MUSKIE (for himself, Mr. RANDOLPH, Mr. BAYH, Mr. SPONG, and Mr. EAGLETON):

S. 3687. A bill to amend the Federal Water

Pollution Control Act, as amended; to the Committee on Public Works.

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

By Mr. MUSKIE:

S. 3688. A bill to provide a national commitment for financing of expanded programs under the Federal Water Pollution Control Act, to assure better coordination in development of clean water programs, and for other purposes; to the Committee on Public Works.

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

By Mr. YARBOROUGH (for himself, Mr. CRANSTON, Mr. BURDICK, Mr. DOMINICK, Mr. MCGOVERN, Mr. MONDALE, Mr. MOSS, Mr. RANDOLPH, Mr. HARRIS, and Mr. KENNEDY):

S. 3689. A bill to amend chapter 34 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make loans to veterans to help meet the expenses of obtaining a private pilot's license where such veterans intend to pursue a flight training program under such chapter, and to improve the farm cooperative training program authorized under such chapter; to the Committee on Labor and Public Welfare.

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

By Mr. MCGEE:

S. 3690. A bill to increase the pay of Federal employees; placed on the calendar.

By Mr. ERVIN:

S.J. Res. 191. A joint resolution proposing an amendment to the Constitution reforming the electoral college method of electing the President; to the Committee on the Judiciary.

(The remarks of Mr. ERVIN when he introduced the joint resolution appear later in the RECORD under the appropriate heading.)

S. 3683—INTRODUCTION OF A BILL CITED AS THE "VIETNAM VETERANS' ASSISTANCE ACT OF 1970"

Mr. CRANSTON. Mr. President, I am introducing—by request—for myself and the ranking minority member of the Veterans Affairs Subcommittee of the Labor and Public Welfare Committee (Mr. SCHWEIKER) and for appropriate reference, a bill to amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; to make improvements in chapter 37 of such title; and for other purposes. This bill was recommended in an April 1, 1970, transmission to the President of the Senate from the Administrator of Veterans' Affairs.

I have already introduced two bills, S. 3656 and S. 3657, dealing with two of the four proposals in the administration's draft bill—sections 3 and 4. I will, however, carefully consider the approach recommended in the bill I am introducing today. Another provision of the bill—section 2(1)—extends to college-level training the same eligibility period—180 days of active duty training—contained in the recently enacted PREP program—Public Law 91-219—for elementary, secondary, or college preparatory training.

Mr. President, I ask unanimous consent that the text of the April 1 transmittal letter and the cost estimate and section-by-section analysis of the draft bill enclosed in that letter be printed in the RECORD at this point followed by the text of the bill.

The PRESIDING OFFICER (Mr. ALLEN). The bill will be received and appropriately referred; and, without objection, the bill, letter, cost estimate, and section-by-section analysis of the bill will be printed in the RECORD.

The bill (S. 3683) to amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; to make improvements in chapter 37 of such title; and for other purposes, introduced by Mr. CRANSTON (for himself and Mr. SCHWEIKER), by request, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3683

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Vietnam Veterans Assistance Act of 1970".

SEC. 2. Section 1652 of title 38, United States Code, is amended by—

(1) striking out "at least two years" in subsection (a)(2) and inserting in lieu thereof "more than one hundred and eighty days"; and

(2) by adding at the end of subsection (b) a new sentence as follows: "Such term also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 2902(a) of title 42."

SEC. 3. Subsections (d) and (e) of section 1681 of title 38, United States Code, are amended to read as follows:

"(d) The Administrator shall, except as provided in subsection (e) of this section, pay the initial educational assistance allowance of an enrollment period to an eligible veteran in an amount not to exceed the educational assistance allowance for the month or fraction thereof in which pursuit of the program will commence, plus the educational assistance allowance for one full month, upon receipt of proof that the eligible veteran has been accepted for enrollment in an approved educational institution on a half-time or more basis. Such payment shall not be made earlier than the first day of the month in which pursuit of the program is to commence. Subsequent payments of educational assistance allowance shall be made each month in advance, subject to such reports and proof of satisfactory pursuit of such program as the Administrator may require. The Administrator may withhold the final payment of an enrollment period until such proof is received and the amount appropriately adjusted. If the eligible veteran fails to enroll in the course after receiving the initial payment of the educational assistance allowance, the amount of such advance payment may be recovered from any benefit otherwise due the veteran under any law administered by the Veterans' Administration or such overpayment shall constitute a liability of such eligible veteran and may be recovered in the same manner as any other debt due the United States."

"(e) No educational assistance allowance shall be paid to an eligible veteran enrolled in a program of education consisting exclusively of flight training or exclusively by correspondence for any period until the Administrator shall have received—

"(1) from the eligible veteran a certification as to his actual attendance during such period or, where the program is pursued by correspondence, a certificate as to the number of lessons actually completed by the veteran and serviced by the institution, and

"(2) from the educational institution, a certification, or an endorsement on the veteran's certificate, that such veteran was enrolled in and pursuing a course of education during such period and, in the case of an institution furnishing education to a veteran exclusively by correspondence, a certificate, or an endorsement on the veteran's certificate, as to the number of lessons completed by the veteran and serviced by the institution."

SEC. 4. (a) Subchapter II of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following new section:

"§ 1819. Loans to purchase mobile homes.

"(a) Notwithstanding any other provisions of this chapter, any veteran eligible for loan guaranty benefits under this chapter who has maximum home loan guaranty entitlement available for use shall be eligible for the mobile home loan guaranty benefit under this section. Use of the mobile home loan guaranty benefit in this section shall preclude the use of any home loan guaranty entitlement under any other section of this chapter until the mobile home loan guaranteed under this section has been paid in full.

"(b) Any loan to a Veteran eligible under subsection (a), if may be an approved lender in accordance with the provisions of this section, may be guaranteed by the Administrator if the loan is for the purpose of purchasing a new mobile home or for the purchase of a used mobile home provided such used mobile home is the security for a prior loan guaranteed under this section or is the security for a loan guaranteed or insured by another federal agency. Any loan for such purpose shall be submitted to the Administrator for approval prior to loan closing. Upon determining that the proposed loan is eligible for guaranty under this section the Administrator may issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects. The Administrator's guaranty shall not exceed 30 per centum of the principal balance of the loan as of the date of the first uncured default in payment as defined by the Administrator. Payment of such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In such accounting the Administrator may allow the holder of the loan to charge against the liquidation or resale proceeds accrued unpaid interest to such cut-off date as he may establish, and such costs and expenses as he determines to be reasonable and proper.

"(c) In lieu of determining the reasonable value of the mobile home to be purchased with the proceeds of a proposed loan and establishing a loan maximum based on such reasonable value, the Administrator may establish a maximum loan amount based on the manufacturer's invoice cost to the dealer and such other cost factors as he considers proper to take into account. Irrespective of the basis utilized by the Administrator for determining the maximum permissible loan amount, no proposed loan shall be approved for guaranty if the loan amount exceeds $10,000 or if the term of the loan exceeds twelve years and thirty-two days. Such limitations on the amount and term of the loan, however, shall not be deemed to preclude the Administrator from consenting to necessary advances for the protection of the security or the holder's lien, or to a reasonable extension of the term or reamortization of a loan. In addition, no proposed loan shall be approved for guaranty unless—

"(1) the loan is repayable in approximately equal monthly installments;

"(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk;

"(3) the loan will be secured by a first lien on the mobile home;

"(4) the amount of the loan (not to exceed $10,000 in any event) is not in excess of the maximum amount prescribed by the Administrator;

"(5) the veteran certifies, in such form as the Administrator may prescribe, that he will personally occupy the property as his home;

"(6) the mobile home is or will be placed on a site which is acceptable to the Administrator;

"(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator;

"(8) a fee, not to exceed that specified in section 1818(d) of this chapter, has been received by the Administrator.

"(d) The Administrator shall establish such rate of interest or discount for mobile home loans as he determines to be necessary in order to assure a reasonable supply of mobile home loan financing for veterans under this section.

"(e) Notwithstanding the $10,000 limitation in subsection (c), a loan to purchase a mobile home to be guaranteed under this section may be increased by a sum not in excess of $3,000 or the reasonable value of the lot as determined by the Administrator, whichever is less, for the acquisition of a lot on which to place the mobile home provided a first lien is also obtained on such lot for the combined loan amount. In any such case the 30 per centum limitation on the guaranty in subsection (b) shall be based on the combined loan amount:

"(f) Entitlement to the benefit used under this section my be restored by the Administrator provided the loan has been repaid in full.

"(g) The Administrator is hereby authorized and directed to promulgate such regulations as he determines to be necessary or appropriate in order to fully implement the provisions of this section, and in such regulations he may include any of the provisions in other sections of this chapter as he determines to be applicable or appropriate for loans guaranteed under this section. The Administrator shall have such powers in respect to matters arising under this section as he has in respect to loans guaranteed under other sections of this chapter.

"(h) No loans shall be guaranteed by the Administrator under the provisions of this section on and after July 1, 1973, except pursuant to commitments issued prior to such date."

(b) The table of sections at the beginning of chapter 37 of such title is amended by inserting immediately after "1818. Veterans who serve after January 31, 1955," the following:

"1819. Loans to purchase mobile homes."

SEC. 5. This Act shall become effective the first day of the second month following the date of enactment, except the amendments by section 4 shall become effective the first day of the third moon following the date of enactment.

The material, presented by Mr. CRANSTON, is as follows:

VETERANS' ADMINISTRATION, OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D.C., April 1, 1970.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; to make improvements in chapter 37 of such title; and for other purposes," with the request that it be introduced in order that it might be considered for enactment.

The provisions of the draft bill are designed to implement those recommendations contained in the report of the President's Committee on the Vietnam Veteran which cannot be accomplished administratively and which were not covered in the recently enacted "Veterans Education and Training Amendments Act of 1970."

Briefly, the draft bill would—

Authorize an advance payment of the educational assistance allowance in order to assist the veteran during the enrollment period meet the necessary initial outlay required by most schools for prepayment of fees, tuition, books, and the necessary money for subsistence for himself and his family until the first payment of the educational assistance allowance is received;

Permit cooperative GI bill educational training for disadvantaged or minority group veterans in qualifying for a Small Business Administration loan;

Revise the eligibility criteria for in-service programs to assist servicemen to prepare for post-secondary training while on active duty by permitting them to participate in such programs following the completion of six months of active duty; and

Authorize the Veterans Administration to guarantee loans by private lenders for the purchase of mobile homes.

There is enclosed a section-by-section analysis of the draft bill, together with an estimate of cost.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this draft bill and its enactment would be in accord with the program of the President.

Sincerely,

DONALD E. JOHNSON,
Administrator.

COST ESTIMATE

Draft bill "To amend title 38, United States Code, in order to authorize the Administrator to make advance educational assistance payments to certain veterans; to make improvements in chapter 37 of such title; and for other purposes."

1. *Section 2.*—

(a) Training by servicemen after completion of more than 180 days active duty. First Year Cost: $17 million.

(b) Training to qualify for Small Business Administration Loan. First Year Cost: Nominal.

2. *Section 3.*—Advance payment of educational assistance allowance. First Year Cost: Nominal.

3. *Section 4.*—Mobile home guarantee loans. First Year Cost: Minimal.

SECTION-BY-SECTION ANALYSIS

Section 1 of the draft bill provides that the Act may be cited as the "Vietnam Veterans Assistance Act of 1970".

Section 2 of the draft bill would amend section 1652 of title 38 by striking out in subsection (a) (2) the words "at least two years" and inserting in lieu thereof "more than 180 days". This provision of the draft bill would permit a serviceman after 180 days active duty to obtain further training. This will permit those in service to adjust education programs to the realities of their service. Many servicemen have more free time during the early part of their active duty service than at a later period during such service. This will facilitate their readjustment upon release from active duty and close the gap between servicemen and those who could further their careers without interruption. Under existing provisions of the GI bill, men in the active military service can qualify for GI bill payment of tuition and fees if they already have served at least two years.

The draft proposal would be an extension of the provision contained in the recently enacted "Veterans Education and Training Amendments Act of 1970" which permits educationally deficient servicemen to pursue courses leading to a high school diploma or its equivalent or to qualify for attendance at an approved educational institution, by permitting all servicemen who have served more than 180 days on active duty to pursue programs of education while still in the Armed Forces. For most men on active duty, military service is a period of interruption of schooling or employment. This period of active duty can be used to benefit the serviceman by giving him an opportunity to improve his skills or educational qualifications.

Section 2 of the draft bill would amend subsection (b) of section 1652 by inserting a new sentence at the end thereof. This added provision would enlarge the definition of program of education to include any approved unit course of subject, or combination thereof, pursued by an eligible veteran at an educational institution as required by the Administrator of the Small Business Administration as a condition to obtaining a small business loan under the Economic Opportunity Act of 1964, as amended. Most Vietnam veterans do not have the financial capacity for starting or expanding a business of their own. The veteran requires knowledge, experience, money, and business guidance to successfully operate a business.

Financial institutions require some training and expertise on the part of the borrower before lending money for business purposes, and the borrower's background and experience are important considerations in determining the risk involved in making the loan. Many small business ventures fail because of lack of business training. Coordinated training programs can provide the veteran with the knowledge necessary to carry on the bookkeeping, managerial, personnel, and other business functions. The bill permits a program structured to this need to be considered a program leading to an acceptable objective.

Section 3 of the draft bill would authorize the Administrator to make an initial advance payment of the educational assistance allowance to veterans enrolled in an educational institution half-time or more, plus the allowance for one full month, upon receipt of proof that the eligible veteran has been accepted for enrollment in an approved educational institution. Such payment would be made not earlier than the first of the month in which pursuit of the program is to commence.

The veteran who enrolls in institutional training must pay for his tuition either prior to commencement of classes or shortly thereafter. The amount which he is required to pay often will deter the veteran from entering training because this initial outlay will drain off his available funds.

Under existing law, the veteran can receive only a partial month payment of his Veterans Administration educational assistance allowance after he has completed his first calendar month of training. This payment is received after the necessary enrollment data has been submitted by the school and processed by the Veterans Administration. By authorizing the advance payment when the school certifies he has been accepted for enrollment, he can be provided with funds to meet initial tuition and ongoing subsistence needs.

Administrative control over the propriety

of such payment is provided for by authorizing the Administrator to withhold final payment of an enrollment period until proof of satisfactory pursuit of the program is furnished.

Section 4 of the draft bill would amend subchapter II of chapter 37, title 38, in order to make veterans not now in a position to take advantage of their GI home loan benefit eligible for a guaranteed loan to purchase a mobile home. The use of this special mobile home benefit would not bar the veteran from using his GI loan benefit later on to acquire a conventional type home when he can afford to do so.

This proposal would provide for guaranteed loan financing on more liberal terms than those obtainable on a conventional basis which usually necessitate substantial down payments. It would permit the guarantee of a loan of up to $10,000, repayable over a term as long as twelve years. Also, the loan could include an additional $3,000 to finance the purchase of a lot on which to place the mobile home. The interest rate on these loans would be established at the lowest possible level necessary to assure a reasonable supply of private lender financing.

Section 5 of the draft bill provides an effective date of the first day of the second month following the date of enactment, except the amendments made by section 4 would become effective the first day of the third month following the date of enactment.

S. 3684—INTRODUCTION OF A BILL TO ESTABLISH A U.S. PASSPORT SERVICE

Mr. DODD. Mr. President, last Christmas the distinguished and efficient Director of the Passport Office, Miss Frances G. Knight, sent a newsletter to Members of Congress which described rather graphically the deterioration of passport service in 1969.

I ask unanimous consent that Miss Knight's newsletter be printed at this point in the RECORD.

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

CHRISTMAS 1969.

DEAR: If this Christmas letter is late reaching you, chalk it up to the fact that I've had a hard time getting into a "Merry Christmas and Happy New Year" mood.

The Passport Office ends 1969 in a bruised and battered condition, thanks to arbitrary budget cuts resulting in reduced personnel; lack of administrative support; lack of an understanding of the changing travel patterns of U.S. citizens, and a total indifference to the predictable results of the forthcoming mass travel capability of the jumbo jets and the SST.

We are surrounded by a plethora of johnny-come-lately experts on passports in the upper echelons of the bureaucracy who in the past year have thwarted Passport Office attempts to gear itself to the challenge of tremendous increases in international travel.

While the following facts may take the edge off a "Merry Christmas" greeting—you should know them, if for no other reason than that you, as a taxpayer, are paying for the mistakes in judgment by the "experts" in administration and management who are "not with it".

Consider this: In 1969 the Passport Office issued 1,810,000 passports. That was a 17.9% increase over 1968. At the peak of our busy season, June 1969, we were 45% over June 1968. In addition, we renewed 184,000 passports to full five year validity without charge. Our budget was $5,676,132 for Fiscal Year 1969, and we brought into the U.S. Treasury $16,550,703 in fees—a net profit of $10,874,571. Despite our increased workload and our pleas for assistance, authority to hire 22 permanent employees required in fiscal 1969 was denied for over a year. Then under the pressure of public criticism, authority was reluctantly granted, but too late to rescue us from costly overtime and a heavy backlog of work. Now, a year and a half later, most of these positions still remain unfilled. Twenty-four more permanent positions requested for fiscal 1970 were denied outright. We have had a number of resignations by temporary employees who refused to work under so much pressure. Passport Office regulars put in 17,000 hours of overtime, resulting in employee fatigue, sickness and a high percentage of errors.

Virtually every recommendation for improvement in our personnel and fiscal positions has been turned down. Our third request for three additional passport agencies, sorely needed, has been denied. We have been denied funds for research into a new passport concept for the future; we have been denied the minimum personnel required in 1970 to operate this office and its ten field agencies. All our protests against these arbitrary decisions have been greeted with a deafening silence.

Currently, the outlook for 1970 is dismal, indeed. As a result of a totally inequitable fiscal policy, the issuance of passports will be delayed at least two weeks, if not more, in the forthcoming year. We will have difficulty recruiting temporary employees and, undoubtedly, we will have some resignations from our professional staff. Perhaps we are not overly bright, but it is increasingly difficult for us, in the Passport Office, to figure out why a Federal Government operation making a net profit of over ten million dollars annually cannot get sufficient funds for staff, equipment and expansion to serve U.S. citizens who are paying for such services.

Under these circumstances, it is mighty difficult to develop a "Merry Christmas" and "Happy New Year" spirit. However, we hope your Christmas will be Merry and Bright and that the New Year will bring you Health and Happiness and all the other good happenings which seem destined to pass us by.

Sincerely,

FRANCES G. KNIGHT,
Director, Passport Office.

Mr. DODD. Mr. President, this newsletter puts the entire passport dilemma into proper perspective.

Most of us were aware of the fact that the Passport Office has been attempting to take care of a greatly increased number of applications with facilities and personnel completely inadequate for the job.

The passport service for Connecticut citizens is abominable, as it is for residents of Alaska and New York.

The same situation prevails in the cities of Detroit, Mich., and Dallas, Houston, and Fort Worth, Tex.

In an effort to rectify this matter, I introduced an amendment to H.R. 15209, the first supplemental appropriation bill for fiscal year 1970. The amendment called for an appropriation of $310,000 to enable the Director of the Passport Office to hire additional personnel in those locations across the country which so desperately needed help.

With the assistance of several of my able colleagues, Senator BYRD of West Virginia, Senator DOLE, Senator GRAVEL, Senator HART, Senator HRUSKA, Senator MCCLELLAN, Senator MCINTYRE, and Senator MURPHY, the amendment passed the Senate by a voice vote.

However, the amendment was deleted in the conference committee at the urging of Members of the other body.

As the winter travel season ended, the complaints about passport service slowed down to a trickle.

It was clear, however, that when spring arrived, the situation would again become critical.

And indeed it has.

Several days ago I received a letter from one of my constituents which I should like to share with the Senate. In part, the letter reads as follows:

In connection with applying for a passport yesterday, I called the Federal Building in Hartford to obtain an appointment in order to file an application. The first 16 calls which were made found the line to be busy. On the 17th call I spoke with a Miss "Blank" who was most pleasant and accommodating. However, she informed me it would not be possible to assign an appointment date until after the first of May. I told her that inasmuch as it will be necessary for me to obtain visas that date would be too late. Finally, she said she would be able to squeeze us in on April 24—4 weeks and 1 day after my call.

I wish in no way to be critical of Miss "Blank" who as I have indicated was most cordial and tried to be as helpful as possible. On the other hand it does seem that the office must be woefully understaffed when there is such a delay in assigning appointments to make applications for passports. It would seem the citizens in this area should be entitled to much better service and I am consequently calling this matter to your attention.

I wish that I could report that this is an isolated case. Unfortunately, however, it is not.

Congress has a responsibility to rectify this situation, and we must take action so that the Passport Office can serve American citizens promptly and effectively.

Accordingly, I send to the desk for appropriate reference a bill which would make the U.S. Passport Office an independent agency within the Department of State.

The relationship between the Passport Office and the Department of State would be very similar to that which presently exists between the Immigration and Naturalization Service and the Department of Justice.

The Passport Office would be capitalized by a revolving fund established in the Treasury in the amount of $15 million. This fund will enable the Passport Office to hire personnel and establish regional offices across the country as needed.

As most of us know, the Passport Office last year brought a profit of some $10.8 million to the Treasury.

It seems likely, therefore, that the revolving fund which this legislation authorizes would amount to only an initial allocation, for it is conceivable that the Passport Office will soon be able to pay for itself and be entirely self-sustaining, leaving the revolving fund untouched.

In order to insure that this is the case, the legislation proposes that the application fee for a passport be raised from $2 to $3 and the issuing fee for a passport be raised from $10 to $12.

While the bill allows the Director of the Passport Office to establish regional offices as deemed appropriate, these regional offices must be self-sustaining. If these regional offices do not take in sufficient fees to cover operating expenses, then the regional offices must be closed within 60 days after the Director determines that they are not self-sustaining.

Each year the Passport Office must submit a budget to the Congress. The accounting system of the Office shall conform to that prescribed by the Comptroller General of the United States and be subject to periodic review by him. A copy of such audits shall be submitted to the President and to the Congress. If there are any profits in the revolving fund at the end of each year in excess of $15 million, these moneys shall be returned to the U.S. Treasury.

I understand that legislation to alleviate the passport dilemma will be considered in the House tomorrow.

My bill is being introduced today with the thought that the Senate, too, should commence action immediately on this problem so perplexing and frustrating to American citizens who must or who wish to travel abroad.

Before the 1970 jet-age travel season is much older, let us improve our steamship-age passport service to give American taxpayers the relief they demand.

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

The bill (S. 3684) to establish within the Department of State a U.S. Passport Service, introduced by Mr. DODD, was received, read twice by its title, and referred to the Committee on Foreign Relations.

S. 3686—INTRODUCTION OF A BILL TO ESTABLISH A FEDERAL ADMINISTRATIVE JUSTICE CENTER

Mr. KENNEDY. Mr. President, the bill I am introducing today for myself and the Senator from Maryland (Mr. MATHIAS) would establish a Federal Administrative Justice Center with responsibility for encouraging and supporting the continuing legal education of lawyers in the service of the Federal Government. The center would fulfill a need which has long been recognized and which is not and cannot be fulfilled adequately by existing facilities.

There are about 10,000 lawyers in the Federal service, including some 600 hearing examiners appointed under the Administrative Procedure Act. They play a vital role in preparing, administering, and enforcing the law. The Government has shown a keen interest in attracting capable young attorneys, and in making their posts attractive, but more concern must be given to measures which would induce the ablest to remain with the Government and enable all lawyers in Federal service to perform their duties more capably.

This bill is designed to fill a part of this gap by encouraging Government lawyers to develop their skills and to keep abreast of developments in Congress, the courts, the agencies, and in society to the end that they may be prepared not only to perform the duties now at hand more competently, but also to undertake effectively future challenges which might be provided through promotion or transfer.

The bar has long recognized the desirability of continuing legal education. The first national Conference on the Continuing Education of the Bar which met at Arden House in 1958 summarized the need in these terms:

> American lawyers today are confronted with problems of vast and increasing complexity. No law school education can be expected to deal with all of these problems. A practicing lawyer has an obligation to continue his education throughout his professional life. This education not only must increase his professional competence but also better qualify him to meet his professional responsibilities to his clients and to the public.

What was there said of the lawyer in general applies with special force to the lawyer in Government service.

Some Government lawyers and hearing examiners now have access to continuing legal education courses provided by the agencies which employ them. Others have access to courses sponsored by the Civil Service Commission, the bar associations, and the law schools. However, what is available falls far short of the needs. No leadership is in sight to remedy the situation without legislation.

In 1962 the Personnel Committee of the Administrative Conference of the United States noted the lack of well-rounded career development and training programs specially designed for lawyers in Federal service. In 1966, the Chairman of the Civil Service Commission and in 1967 the Presidential Task Force on Career Advancement observed that this deficiency still existed, a shortcoming made more obvious by the existence of excellent programs for professionals in other fields. In 1969 the American Bar Association and the Administrative Conference of the United States, by adopting formal resolutions again pointed to the need for improved continuing legal education in the Government, recommending as a remedy the founding of a center in Washington by the Government which would be responsible for this activity.

The proposed center would be organized as a new agency. This is necessary because it does not appear feasible to assign the function to any existing Government organization. Policy will be determined by a board of visitors with the Attorney General as chairman. A majority of the board would consist of persons in Government employ, including Representatives of Congress, the court of appeals, departments, agencies, and hearing examiners. An outside viewpoint would be provided by members chosen from the private bar and law schools.

The activities of the center would be supervised by a staff of lawyers similar to the administration of a law school. The staff would be small, and the center's proposed budget of $400,000 is a modest one. Students would be designated by the agencies of the Government employing them as lawyers. Fees covering the cost of a course would be paid out of funds available for training purposes by the agencies sending their lawyers to the courses organized by the center.

The center would also be open to nonlawyer Federal personnel engaged in administrative justice functions and to lawyers not in Federal service, under conditions to be established by the dean of the center.

The center would work closely with the departments, agencies, and the hearing examiners to identify education needs and to develop effective legal education programs.

Expert faculty would be recruited for each particular course as the need arises. This should avoid any necessity for the center to employ a large permanent staff. The center, therefore, would provide an economical as well as adaptable solution.

The center would not overlap the existing powers and responsibilities of any agency of the Government. Where training of lawyers is now effectively conducted within the Government, it would continue unimpaired. The center would be expected to effect its role where further education of lawyers is not provided at all or strengthening of existing programs is needed. By organizing appropriate courses, the center could help to further the administration of justice, lead to more effective administrative procedures in legal representation of the Government, and serve to broaden the perspective and viewpoint of those whose past responsibilities may have rendered them overspecialized or inadequately sensitized to new developments in related fields.

Continuing legal education would encourage more capable young lawyers to join the Government and help retain experienced attorneys of undoubted ability.

State and local governments would also benefit indirectly from the activities of the center. Faculty members recruited from local law schools and from the private bar for particular courses would be able to repeat them, with appropriate modification, for the benefit of lawyers employed by State and municipal governments. Further, course materials developed by the center might prove suitable, with little or no amendment, for continuing legal education courses designed to improve the administration of justice on the State and local levels.

The Federal Administrative Justice Center is designed to fulfill a need for continuing legal education which will endure as long as there is an insistence that Government be administered with competence and justice. Continuing education is particularly essential to lawyers employed by the Federal Government during this time of rapid changes in our economy and society.

The PRESIDING OFFICER (Mr.

CRANSTON). The bill will be received and appropriately referred.

The bill (S. 3686) to amend title 5 of the United States Code to establish the Federal Administrative Justice Center to enhance the quality of administrative law operations in the United States, introduced by Mr. KENNEDY (for himself and Mr. MATHIAS), was received, read twice by its title, and referred to the Committee in the Judiciary.

S. 3687—INTRODUCTION OF A BILL ENTITLED "NATIONAL WATER QUALITY STANDARDS ACT OF 1970"

Mr. MUSKIE. Mr. President, I introduce for myself and Senators RANDOLPH, BAYH, SPONG, and EAGLETON, the National Water Quality Standards Act of 1970.

This bill is part of the legislative program which I announced on January 23 and would broaden the coverage of the water quality standards program, toughen the enforcement of those standards, and double the level of Federal assistance for the construction of treatment facilities.

I ask unanimous consent that the analysis of the bill's major provisions be printed at this point in the RECORD.

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

ANALYSIS OF THE BILL

1. *State assistance grants.*—Beginning in fiscal year 1972, the bill doubles the authorization for grants to State and interstate water pollution control agencies to $20 million annually.

The bill provides that this money be used to supplement, not supplant, State and interstate funds.

The bill adds a new requirement that Federal assistance funds be used to help develop and carry out effective plans for the implementation, maintenance, and enforcement of water quality standards and effluent requirements under the water quality standards program. If a State fails to have its plans approved or implement them in timely fashion, grant money can be forfeited.

2. *Waste treatment construction grant program.*—The bill continues the present direct grant program for construction of waste treatment works for five fiscal years (1972, 1973, 1974, 1975, and 1976) with several changes designed to improve the program, achieve more efficient waste treatment, and make it more consistent with the national water quality standards program.

The bill increases the authorization from $1.25 billion in fiscal year 1971 to $2.5 billion annually through fiscal year 1976. If fully funded, this authorization would generate the construction of $25 billion worth of municipal waste treatment works.

The bill also extends the reimbursement provisions of the Act to June 30, 1976. Funds allotted to a State would be available for new treatment works to reimburse communities for works constructed since 1966.

The present provision of the Act for allocation of the first $100 million appropriated each year on the basis of a formula designed to help rural areas is retained. The bill requires that funds not obligated within six months after the beginning of the fiscal year because of a lack of State approved and certified treatment works shall be reallotted to States eligible for 50 to 60 percent grants.

The present grant program authorizes 30, 40 and 50 percent grants for treatment works depending on the level of State assistance and water quality standards.

RIVER BASINS

As an additional incentive to river basin planning the bill authorizes a Federal share of 60 percent of the cost of treatment works located in basins designated by the Secretary. 40 percent of the cost of construction would be shared by the participating States, communities and industries located in the basin.

The Secretary would designate basins eligible for these increased grants and would make such increased grants after a finding that an effective and economical system for the collection and treatment of all waste discharges in the basin has been established consistent with approved water quality standards.

CONSTRUCTION PRIORITIES

Under the present system, each State sets its own priorities for the funding of treatment works construction. This bill requires that the criteria for determining these priorities must at least be consistent with the State plan for implementation, maintenance, and enforcement of water quality standards. The Secretary is authorized to withhold grants from States that do not have priority systems consistent with this plan.

3. *Water quality standards.*—The bill establishes that the purpose of water quality standards is to protect and enhance the existing quality of all waters; encourages public participation in the development, enforcement and revision of such standards; extends the water quality standards program to all navigable waters and their tributaries in the United States; requires that all standards include effluent requirements and compliance schedules; requires a review and, where appropriate, a revision of standards by the States at a minimum of every five years; extends water quality standards to the waters of the contiguous zone; and authorizes the Secretary and his representatives to enforce all standards.

4. *Enforcement.*—This bill prohibits the discharge of any wastes in violation of the standards, the plan for implementation, the compliance schedules or the effluent requirements.

If a violation occurs, the Secretary must promptly issue an order to the discharger requiring abatement and prescribing time to abate. The State is provided with a copy of the order.

In the case of a violation of effluent requirements, the time prescribed in the order must not exceed 72 hours. If this particular order is violated, the Secretary could immediately proceed to enforcement proceedings in the Federal district court.

A person who receives an order to abate any other violation of water quality standards has 30 days to appeal to the Secretary and request a public hearing.

Upon completion of the hearing, the Secretary must promptly make findings of fact and issue his decision vacating, affirming, or modifying the order.

Review of the Secretary's decision may be made by the United States Court of Appeals. The court must hear the appeal on the records made before the Secretary without a new trial on the facts. The court may affirm, vacate, or modify the decision or remand it back to the Secretary.

If a person issued an order does not comply with the order or appeal within the time prescribed, the Secretary shall bring an action in the Federal district court to abate the violation.

If a person knowingly violates the water quality standards or if he knowingly fails to comply with any final order or decision issued under this new section of the Act, such person shall be fined up to $25,000 per day of violation, or be imprisioned for up to a year, or both. The fine and imprisonment term is doubled after the first conviction.

5. *Protection of employees.*—The bill protects workers who give information in any proceeding under the Act, including testifying in a proceeding to enforce water quality standards, by making it the discharge or discrimination of such worker illegal. The Secretary of Labor shall review cases and investigate. If Secretary finds illegal discharge or discrimination, he shall issue a decision ordering the rehiring or reinstatement of the employee with compensation.

6. *Imminent endangerment.*—The bill authorizes the Secretary of the Interior to bring suits in the United States district courts in cases where he has evidence that an effluent source presents (a) an imminent and substantial endangerment to the health of persons or fish and wildlife, or (b) an imminent and substantial endangerment of economic injury to persons marketing shellfish or shellfish products. This provision should enable the Secretary to act promptly to protect people, fish and wildlife, and our commercial shellfish industry.

7. *General.*—The bill abandons the conference procedure in favor of the quicker and more effective enforcement of water quality standards.

In the case of pollution that endangers the public health or welfare of another Nation, the bill provides that the Secretary, at the request of the Secretary of State, shall convene a hearing board to recommend appropriate action to abate the pollution.

The bill directs the Secretary to issue regulations requiring that persons subject to water quality standards install and use up-to-date pollution control techniques in new facilities.

The bill prohibits Federal agencies from making loans or grants to or isuing licenses or permits to, or entering into contracts for financial assistance with any person to construct, install, or operate a commercial or industrial facility that does not comply with water quality standards. A similar prohibition extends to the purchase of goods and services by Federal agencies.

Mr. MUSKIE. In 1965 the water quality act established a broad Federal-State-local program of water quality standards and enforcement. In 1966 the clean water restoration act created a program of Federal assistance for the construction of municipal waste treatment facilities. Both laws broke new ground in their approach to the enhancement of the quality of our waters, and together they were an experiment in partnership of different levels of government.

It is time to examine the results of that experiment, to strengthen the effort, to make changes where they are needed, and to make a greater financial commitment to clean water.

The water quality program has lagged far behind the goals set by the Congress in 1965 and 1966.

Although the Water Quality Act was passed in 1965 and standards were submitted by the July 1967 deadline, only 14 States had approved water quality standards for all interstate waters as of 3 months ago. I ask that a list of the status of exceptions to the standards be printed in the RECORD at this point.

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

STATUS OF EXCEPTIONS TO WATER QUALITY STANDARDS—JAN. 20, 1970

State	Exceptions	Nondegradation statements approved	Enforcement conferences	Remarks
Alabama	Temperature, dissolved oxygen.	No	Escambia River (1962); Coosa River (1963); Chattahoochee River (1966); Escambia River Basin (1970); Perdido Bay (1970); Mobile Bay (1970).	Letter from the Secretary to Governor Brewer Dec. 5, 1969 indicating dissolved oxygen and temperature clauses that would be approvable. Still being negotiated. Outlook good.
Alaska	Placer mining, toxic materials	No		Proposed legislation to remove placer mining exception to be introduced. Outlook fair.
Arizona	None	Yes	Colorado River (1960)	
Arkansas	do	Yes	Corney Creek (1957); Lower Mississippi (1964)	
California	Temperature, harbors, marinas, and tidal, dissolved oxygen.	Yes	Colorado River (1960); Lake Tahoe (1966)	Public hearings to be conducted on revisions. Outlook good.
Colorado	Temperature and dissolved oxygen on Animas River.	No	Animas River (1958); Colorado River (1960); South Platte (1963).	Agreement reached, formalization in process at State level.
Connecticut	Dissolved oxygen	No	Connecticut River (1963)	Agreement reached, formalization by FWPCA in process.
Delaware	Treatment requirements, dissolved oxygen.	No		Awaiting disposition by the Assistant Secretary.
Florida	None	Yes	Escambia River (1962); Escambia River Basin (1970); Perdido Bay (1970); Biscayne Bay (1970).	
Georgia	do	No	Coos River (1963); Lower Savannah (1965); Chattachoochee (1966).	
Hawaii	do	No		
Idaho	do	No	Bear River (1958); Snake River (1964)	
Illinois	Dissolved oxygen, temperature, Ohio, Wabash, Mississippi River, treatment Mississippi River, Phenols	Yes	Missouri River, St. Louis (1958); Mississippi, Clinton (1962); Calumet, Lake Michigan (1965); Lake Michigan.	Negotiations continue. State is conditioning action on resolution of bordering States' issues. Outlook is poor for the immediate future.
Indiana	None	No	Calumet, Lake Michigan (1965); Lake Erie (1965); Lake Michigan (1968).	
Iowa	Treatment, disinfection, temperature.	No	Missouri River, Omaha area (1957); Missouri River, Sioux City (1958); Mississippi River, Clinton (1962).	Subject of standards-setting conference in 6-month waiting period after publication in Federal Register. State has taken several actions compatible with FWPCA position.
Kansas	Compliance date, temperature, bacteria, dissolved oxygen.	Yes	Big Blue (1957); Missouri River St. Joe (1957); Missouri River, Omaha (1957); Missouri River, Kansas City (1957).	FWPAS recommendations are to be considered at a State board meeting in January 1970. Outlook poor.
Kentucky	Dissolved oxygen	No		Regiona. office negotiating with State. Outlook fair
Louisiana	do	No	Corney Creek (1957); Pearl River (1963); Lower Mississippi River (1964).	State proposal under evaluation by FWPCA.
Maine	pH, temperature, radioactivity, bacteria, dissolved oxygen.	No	Androscoggin River (1962); Penobscot River (1967)	Most exceptions resolved by State. Negotiations continue. Outlook is good.
Maryland	None	No	Potomac River (1957); Monongahela River (1963)	
Massachusetts	do	No	Connecticut River (1963), Merrimack River (1964); Blackstone River (1965); Boston Harbor (1968).	
Michigan	Temperature	Yes	Detroit River (1962); Menominee River (1963); Lake Erie (1965); Lake Michigan (1968); Lake Superior (1969).	State hearing scheduled for March 1970. Agreement expected at that time.
Minnesota	None	Yes	Upper Mississippi River (1964); Red River of the north (1965); Lake Superior (1969).	Standards approved for the entire State Nov. 26, 1969.
Mississippi	Dissolved oxygen	No	Pearl River (1963); Lower Mississippi River (1965)	Letter from the Secretary to Governor Williams Dec. 5, 1969 indicating dissolved oxygen and temperature clauses that would be approvable. Negotiation continuing. Outlook good.
Missouri	do	Yes	Missouri River, St. Joe (1957); Missouri River, Omaha (1957); Missouri River, Kansas City (1957); Mississippi River, St. Louis (1958).	Regional office negotiating with State. Outlook fair.
Montana	None	Yes		
Nebraska	do	Yes	Big Blue (1957); Missouri River, Omaha area (1957); Missouri River, Sioux City (1958); North Platte (1961).	
Nevada	do	Yes	Colorado River (1960); Lake Tahoe (1966)	
New Hampshire	Merrimack River schedule, Androscoggin River schedule, temperature, implementation schedules.	No	Androscoggin (1962); Merrimack River (1964)	Negotiations have proceeded but results have not been satisfactory. Outlook is poor.
New Jersey	Dissolved oxygen, temperature.	Yes	Raritan Bay (1961); Hudson (1965); Eastern New Jersey shore.	Negotiations continue. Outlook good.
New Mexico	None	Yes	Animas River (1958); Colorado River (1960)	
New York	do	No	Raritan Bay (1961); Lake Erie (1965); Hudson (1965); Moriches Bay (1966); Lake Champlain (1968).	
North Carolina	Dissolved oxygen, temperature.	No		Regional office negotiating with State. Negotiations proceeding. Outlook good.
North Dakota	Red River of the North	No	Red River of the North	Standards received and are acceptable. Approval letter being prepared.
Ohio	Mahoning River, odor, temperature, dissolved oxygen.	Yes	Mahoning River (1965); Lake Erie (1965).	Negotiations continuing with State. Outlook fair.
Oklahoma	Dissolved oxygen	No		Formal package received. Standards are acceptable. Approval letter being prepared.
Oregon	None	Yes	Lower Columbia (1958)	
Pennsylvania	do	No	Monongahela River (1963); Mahoning River (1965); Lake Erie (1965).	
Rhode Island	Dissolved oxygen	No	Blackstone River (1965)	Meeting held. Outlook good.
South Carolina	Dissolved oxygen, temperature.	No	Lower Savannah (1965)	Regional office negotiating with State. Negotiations continuing. Outlook good.
South Dakota	None	No	Missouri River, Sioux City	
Tennessee	Temperature	No	North Fork Holston (1960); Lower Mississippi River (1964).	Regional office negotiating with State. Negotiations continuing. Outlook good.
Texas	None	Yes		
Utah	do	Yes	Bear River (1958); Colorado River (1960)	
Vermont	Upgrade standards on certain rivers, dissolved oxygen, temperature, classifications.	No	Lake Champlain (1968)	Negotiations continue State adopting some acceptable revisions.
Virginia	Dissolved oxygen, temperature, chlorida, treatment.	No	Potomac River (1957); North Fork Holston (1960)	State in the process of adopting recommended criteria and stream reclassification. Outlook uncertain.
Washington	None	Yes	Lower Columbia (1958); Puget Sound (1962); Snake River (1964).	
West Virginia	Iron, aluminum	No	Monongahela River (1963)	Pending outcome of meeting with the State.
Wisconsin	None	Yes	Menominee River (1963); Upper Mississippi River (1964); Lake Michigan (1968); Lake Superior (1969).	
Wyoming	do	Yes	Bear River (1958); Colorado River (1960); North Platte (1961).	
District of Columbia	do	Yes	Potomac River (1957	
Guam	do	Yes		
Puerto Rico	do	Yes		
Virgin Islands	do	Yes		

Mr. MUSKIE. Enforcement, through private conferences with the polluters, and on a hit-or-miss basis, has been contrary to the congressional intent of public involvement, uniform procedures for the development of standards, and court action where necessary.

Millions have been spent on research and planning, but little improvement has been made in the quality of our waters; $3.4 billion was promised in assistance for the construction of municipal facilities over a 4-year period, but only $1.2 billion has been appropriated. And now some have asked that we cut back on the goals we set in 1966.

We must require stricter standards, faster timetables, tougher enforcement, and greater public participation. And we must spend much more money.

Money is the first requirement. We cannot build the waste treatment facilities we need without it. Last year we made a start on fulfilling our commitments. The Senate voted to appropriate the full authorization of $1 billion for waste treatment facilities. Although we had to compromise with the House at a figure of $800 million, we made a significant start.

Fiscal 1971 is the last year of the 5-year program approved by the Congress in 1966, and an appropriation of $1.25 billion is authorized. We must appropriate the full $1.25 billion. We must not retreat from our goals.

At the same time, we must make a decision on the form the program of Federal assistance will take after this fiscal year. We cannot afford to reduce the level of Federal assistance. We cannot afford to move back to a level of $1 billion a year. The bill I introduce today doubles the present level of assistance to $2.5 billion yearly, a level that I believe reflects the commitment the American people are willing to make to clean water.

Hearings on this bill, the administration proposal, and other legislation introduced by other Members of the Senate will begin on April 20.

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

The bill (S. 3687) to amend the Federal Water Pollution Control Act, as amended, introduced by Mr. MUSKIE (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

S. 3688—INTRODUCTION OF NATIONAL LEAGUE OF CITIES WATER POLLUTION BILL

Mr. MUSKIE. Mr. President, at the request of the U.S. Conference of Mayors and the National League of Cities, I introduce the Clean Water Commitment Act of 1970.

This bill represents proposals which the conference and the league believe necessary to stimulate construction of waste treatment facilities at the local level and accomplish other purposes. This bill will be considered by the subcommittee on air and water pollution in conjunction with other pending water pollution legislation.

I ask unanimous consent that the text of the bill and accompanying correspondence be printed in the RECORD at this point.

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

The bill (S. 3688) to provide a national commitment for financing of expanded programs under the Federal Water Pollution Control Act, to assure better coordination in development of clean water programs, and for other purposes, introduced by Mr. MUSKIE, was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD, as follows:

S. 3688

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Clean Water Commitment Act of 1970".

SEC. 2. The Congress hereby finds and declares—

(1) that continued population growth and economic expansion require high quality water supplies;

(2) that the nation's waterways are currently in serious danger of becoming polluted to a degree that will be injurious to the health and welfare of the nation, and

(3) that the urgency of this problem requires dedication of substantial public and private resources to control and abate water pollution, including a firm commitment of at least $20,000,000,000 in Federal expenditures during the next decade.

SEC. 3. Subsection 3(c) of the Federal Water Pollution Control Act is amended to read as follows:

"(c) (1) Each State, in cooperation with the Secretary, shall identify all water basins or elements of water basins within its jurisdiction with proper regard to such geographic, social and other environmental factors as will make each water basin an appropriate unit for application of comprehensive water quality standards and regulations. For each water basin so identified, the State or States with waterways or land included within the water basin shall establish a water basin commission representative of the State and local governments and other public, private and (when appropriate) international interests in the water basin area.

"(2) Each water basin commission established under this section shall develop an effective, comprehensive water quality control and pollution abatement plan for the water basin for which it was established. Such plan shall cover a period of at least five years and—

"(A) provide for updating at least every two years;

"(B) be consistent with any applicable water quality standards established pursuant to current law within the basin;

"(C) recommend such treatment works and sewer systems an will provide the most effective and economical means of collection, storage, treatment, and purification of waters, recommend means to encourage both municipal and industrial use of such works and systems, and specify the costs necessary to construct such works and systems; and

"(D) identify Federal, State, local and private financing available to construct such works and systems and establish a schedule for the maintenance and improvement of water quality standards within the water basin with which compliance shall be required consistent with the availability of Federal, State, local and private financing to construct the necessary works and systems to implement the plan.

"(3) The Secretary shall, at the request of the governor of a State, or a majority of the governors when more than one State is involved, make a grant to pay not to exceed 50 per centum of the administrative expenses of a water basin commission for a period not to exceed 5 years, if such commission provides adequate representation of State and local governments and other public, private and (when appropriate) international interests in the water basin area and is capable of developing an effective, comprehensive water quality control and pollution abatement plan for a basin.

"(4) For the purposes of this subsection the term "water basin" includes, but is not limited to, rivers and their tributaries, streams, coastal waters, sounds, estuaries, bays, lakes, and portions thereof, as well as the lands drained thereby which together or individually form an integral geographic unit for which a comprehensive water pollution control program can be effectively planned and implemented.

Sec. 4 (a) Subsections (a), (b), (c) and (d) of section 7 of the Federal Water Pollution Control Act are amended to read as follows:

"(a) There are hereby authorized to be appropriated for the fiscal year ending June 30, 1971, $15,000,000, and for each succeeding fiscal year to and including the fiscal year ending June 30, 1976, $25,000,000 for grants to States, to water basin planning commissions and to interstate agencies to assist them in meeting the costs of establishing and maintaining adequate measures for the prevention and control of water pollution, including the training of personnel of public agencies.

"(b) The portion of the sums appropriated pursuant to subsection (a) for a fiscal year which shall be available for grants to interstate agencies and the portion thereof which shall be available for grants to States and water basin planning commissions shall be specified in the Act appropriating such sums.

"(c) From the sums available therefor for any fiscal year the Secretary shall from time to time make allotments to the several States, in accordance with regulations, on the basis of (1) the population, (2) the extent of the water pollution problem, and (3) the financial need of the respective States and water basin planning commissions.

"(d) (1) From each State's allotment under subsection (c) for any fiscal year the Secretary shall pay to such State an amount equal to its Federal share (as determined under subsection (h)) of the cost of carrying out its State plan approved under subsection (f), including the cost of training personnel for State and local water pollution control work and including the cost of administering the State plan.

"(2) From the remainder of such State's allotment under subsection (c) for any fiscal year the Secretary is authorized to make grants to any water basin commission within the State in an amount not to exceed 50 per centum of the cost of carrying out its water basin plan approved under subsection (f) including the cost of administering the water basin plan."

(b) Subsection 7(f) of the Federal Water Pollution Control Act is amended to read as follows:

"(f) The Secretary shall approve any plan for the prevention and control of water pollution in a water basin or portion thereof within a State which is submitted through the State water pollution control agency or, in the case of an interstate agency, by such agency, if such plan—

"(1) provides for administration or for the supervision of administration of the plan by the State water pollution control agency and the appropriate water basin commission or, in the case of a plan submitted by an interstate agency, by such interstate agency;

"(2) provides that such agency or agencies will make such reports, in such form and containing such information, as the Secretary may from time to time reasonably require to carry out his functions under this Act;

"(3) sets forth the plans, policies, and methods to be followed in carrying out the plan and in its administration;

"(4) provides for extension or improvement of the State or interstate water basin program for prevention and control of water pollution;

"(5) provides such accounting, budgeting, and other fiscal methods and procedures as are necessary for the proper and efficient administration of the plan; and

"(6) sets forth the criteria used by the State in determining priority of projects as provided in Section 8(b)(7), and such criteria may consider financial need and other factors deemed relevant by the State in assessing individual projects in abating water pollution and improving water quality, but they must place primary emphasis on effectiveness of individual projects in abating water pollution and improving water quality. The Secretary shall not disapprove any plan without first giving reasonable notice and opportunity for hearing to the State water pollution control agency and appropriate water basin commission or interstate agency which has submitted such plan."

SEC. 5. (a) Section 8(b) of the Federal Water Pollution Control Act is amended to read as follows:

"(b) Federal grants under this section shall be subject to the following limitations: (1) no grant shall be made for any project pursuant to this section unless such project shall have been approved by the appropriate State water pollution control agency or agencies and by the Secretary; (2) no grant shall be made, from funds appropriated for the fiscal year beginning July 1, 1971, and any succeeding fiscal years, for any project pursuant to this section unless such project has been approved by the appropriate water basin plan commission and is included in a comprehensive water pollution abatement plan developed pursuant to this Act; (3) no grant shall be made for any project pursuant to this section unless enforceable water quality standards have been established for the waters into which the project discharges, in accordance with section 10(c) of this Act in the case of interstate waters, and under State law in the case of intrastate waters; (4) no grant shall be made for any project in an amount exceeding 50 per centum of the estimated reasonable cost thereof as determined by the Secretary; (5) no grant shall be made unless the grantee agrees to pay the remaining cost; (6) no grant shall be made for any project under this section until the applicant has made provision satisfactory to the Secretary for assuring proper and efficient operation and maintenance of the treatment works after completion of the construction thereof; and (7) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control plan submitted pursuant to the provisions of section 7 and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control need; (8) the percentage limitation of 50 per centum imposed by clause (4) of this subsection shall be increased to a maximum of 70 per centum in the case of grants made under this section to those municipalities which have received Federal or State assistance from any source which has provided, in total, less than 20 per centum of the cost of projects eligible for assistance under this Act.

(b) Section 8(c) of such Act is amended by—

(1) adding "and prior to July 1, 1971," after "on or after July 1, 1965" wherever appearing therein; and

(2) adding at the end thereof the following: "All sums authorized for obligation pursuant to subsection (d) for each fiscal year beginning on or after July 1, 1971, shall be allotted by the Secretary from time to time, in accordance with regulation, in the ratio that the population of each State bears to the population of all States. Sums allotted to a State in excess of amounts required to cover the federal share of costs for eligible projects approved by the appropriate State water pollution control agency or agencies shall be reallocated among these States where the Federal share of eligible projects is greater than the sums allocated under the initial allocation. Reallocation of sums authorized for expenditure in the fiscal year beginning July 1, 1971, shall be determined by the Secretary on the basis of needs identified in lists of eligible projects submitted by the States on or before January 31, 1971. Reallocation of sums authorized for expenditure for each fiscal year beginning on or after July 1, 1972, shall be determined by the Secretary on the basis of needs identified in lists of eligible projects submitted by the State one year in advance of the fiscal year for which the expenditure is authorized."

(c) Section 8(d) of such Act is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following new paragraphs:

"(2) To finance the programs and activities under this section, the Secretary is authorized to incur obligations in the form of grant agreements or otherwise in amounts aggregating not to exceed $10,000,000,000. This amount shall become available for obligation upon the effective date of this subsection and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this subsection not to exceed $2,000,000,000 prior to July 1, 1972, which amount may be increased to not to exceed an aggregate of $4,000,000,000 prior to July 1, 1973, not to exceed an aggregate of $6,000,000,000 prior to July 1, 1974, not to exceed an aggregate of $8,000,000,000 prior to July 1, 1975, and not to exceed an aggregate of $10,000,000,000 prior to July 1, 1976. Sums so appropriated shall remain available until expended.

"(3) The Secretary shall report annually to the Congress, after consultation with States, water basin commissions, and municipalities, with respect to outstanding grants or other contractural agreements executed pursuant to this subsection. To assure program continuity and orderly planning and project development, the Secretary shall submit to the Congress (A) authorization requests for fiscal years 1977 and 1978 no later than February 1, 1973, (B) authorization requests for fiscal years 1979 and 1980 no later than February 1, 1975, and (C) authorization requests for fiscal years 1981 and 1982 no later than February 1, 1977. Such authorization requests shall be designated to meet the Federal commitment specified in section 2 of the Clean Water Commitment Act of 1970. Concurrently with these authorization requests, the Secretary shall also submit his recommendations for any necessary adjustments in the schedule for liquidation of obligations."

The correspondence, presented by Mr. MUSKIE, is as follows:

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
Washington, D.C., January 20, 1970.

HON. EDMUND MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: The National League of Cities and the U.S. Conference of Mayors believe that abatement of water pollution is among the most urgent problems facing our nation. We have recently conducted an extensive review of the Federal Water Pollution Control Program. The resulting enclosed report cites current problems and suggests major changes in the Federal Water Pollution Control Act.

The changes we recommend include:

Establishment of a long-term funding program for clean water;

An increase in the standard matching ratio for federal support of treatment plant construction from the current 30 percent to 50 percent;

Increased emphasis on allocation of funds based on need and effectiveness of the projects in controlling pollution.

Both this report and the enclosed letter to President Nixon urge the President to utilize the full $800 million appropriated for FY 1970 for clean water. In addition, we support the appropriation of the $1.25 billion authorized for the clean water program in fiscal 1971.

Because of your interest in and support for clean water legislation, we urge you to examine our recommendations closely and consider them favorably as the Federal Water Pollution Control Act is being reviewed by the Congress. If you wish further information on our proposal we will be happy to provide it to you.

Sincerely,

JOHN GUNTHER,
Executive Director,
U.S. Conference of Mayors.
PATRICK HEALY,
Executive Vice President,
National Leagues of Cities.

NATIONAL LEAGUE OF CITIES,
U.S. CONFERENCE OF MAYORS,
Washington, D.C., January 12, 1970.

THE PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The National League of Cities and the U.S. Conference of Mayors believe that abatement of water pollution is among the most urgent problems facing our nation. We are encouraged by your recent statements stressing priority for improvement of the environment and by Congress' demonstrated commitment to clean water in voting $800 million for pollution control facilities in fiscal 1970. However, we are deeply concerned that this $800 million so badly needed for improvement of the nation's waterways will not be spent and that the long term effort to achieve a quality environment is being sacrificed to the immediate concern with inflation.

Developing an effective local clean water program is a substantial task involving years of planning, often necessitating voter approval of bond referenda, and requiring binding long term commitments for the financing and construction of capital facilities. Relying on the promise of the Clean Water Restoration Act of 1966, many localities initiated substantial programs which now collectively have needs for Federal assistance approaching $2.5 billion. The recent Congressional appropriations action was a significant step torward fulfilling these needs. Further delay and uncertainty in allocating the $800 million now available may seriously increase costs and impede progress of the national clean water effort. This vital long term program should not be subjected to such delays and confusion.

To dispel these concerns and reaffirm the national policy to achieve a quality environment, the National League of Cities and the U.S. Conference of Mayors urge you to make an immediate commitment to spend the $800 million by directing the Interior Department

to allocate all funds for state and local programs during the current fiscal year.

Sincerely yours,

PATRICK HEALY,
Executive Vice President,
National League of Cities.
JOHN GUNTHER,
Executive Director,
U.S. Conference of Mayors.

CLEAN WATER IN THE 1970's

The Federal Water Pollution Control Act currently authorizes federal assistance to local governments for construction of sewage treatment works through fiscal 1971. Because of the long-term nature of the commitments involved in this program, reauthorization of the Federal Water Pollution Control Act will be necessary during 1970 to assure localities an unbroken pattern of federal assistance with which they can plan and implement clean water programs. Because of its substantial importance in local efforts to achieve a high quality environment, the National League of Cities (NLC) and the U.S. Conference of Mayors (USCM) have closely monitored the progress of the Federal Water Pollution Control Program.

Staff of NLC and USCM have discussed the program with many local officials, and in late November of 1969, NLC and USCM convened a special task force of local officials expert in the water pollution control fields to examine the Federal Water Pollution Control Act and make recommendations for program changes believed necessary to improve the effectiveness of the water pollution control effort. The special task force included: Vinton W. Bacon, General Superintendent, Metropolitan Sanitary District of Greater Chicago; William T. Eiffert, Director, Department of Water, Dayton, Ohio; Charles V. Gibbs, Executive Director, Municipality of Metropolitan Seattle; Henry J. Graeser, Superintendent of Water, Dallas, Texas; Charles B. Kaiser, Jr., General Counsel, Metropolitan St. Louis Sewer District; and F. Worth Landers, Director of Public Works, Portland, Maine.

The recommendations and following report are the result of discussions of this task force and discussions with city officials, state municipal league executives and other persons concerned with local application of the Federal Water Pollution Control Act.

RECOMMENDATIONS

1. NLC and USCM recommend that administrative procedures be revised to become more consistent with the goals established by the Federal Water Pollution Control Act by placing greater emphasis on overall water quality improvement rather than individual polluting sources.

2. NLC and USMC recommend that state priority setting systsems be revised to emphasize effectiveness of projects in abating water pollution. Included in this redirection should be an amendment to the Federal Water Pollution Control Act to place greater emphasis on pollution control effectiveness in priority setting.

3. NLC and USMC recommend that water pollution plans should be developed with the river basin as the essential unit in the planning structure.

4. NLC and USCM recommend that the Federal Water Pollution Control Act be amended to allow the federal government to enter into long-term commitments obligating a substantially increased level of funds for expenditures over the next five years to provide federal share of costs for implementing river basin plans as these plans are developed.

5. NLC and USCM recommend that the allocation formula among states be modified. State allocations would be continued according to a population formula to the extent that such allocations are necessary to implement elements of river basin plans within a particular state, but where funds are not needed to implement projects within a state's borders, no more fund would be assigned to that state. The remaining available funds would be divided, again on a population formula, among those states which still require federal assistance to implement elements of approved river basin plans within their borders.

6. NLC and USCM recommend establishment of a basic 50% matching ratio for all projects, regardless of the degree of state participation in financing the non-federal share of project costs.

7. NLC and USCM recommend that the level of assistance for projects provided under the Federal Water Pollution Control Act be increased by 20% for those localities which, in constructing their existing facilities, have received federal or state assistance from any source, which, in the aggregate, amounts to less than 20% of the cost of these facilities which would be eligible for assistance under the Federal Water Pollution Control Act.

INTRODUCTION

The planning, financing and construction of capital facilities required for municipalities to meet the water quality standards of state water pollution control plans must, of necessity, take place over periods of several years. Advance planning, voter approval of bond referenda, and binding long-term commitments for the financing and construction of capital facilities are all often necessary elements of local clean water efforts. The long-term nature of such programs requires that the financing and basic policy assumptions upon which they are developed be reasonably stable. Policy assumptions and financing commitments which shift sporadically cannot be the basis of a long-term capital improvement program.

Currently, federal aid for local clean water programs depends entirely upon the annual appropriations process, subjecting local capital financing programs relying on federal assistance to the continued uncertainties of support incident to the annual competition for dollars in Congress. Even when the level of support from Congress is decided, allocation of appropriated funds for state and local action to abate water pollution is by no means assured, for the size of the clean water program makes it a convenient subject for manipulation by fiscal policy-makers whose primary concern is short-term shifts in the economy rather than longer range environmental problems posed by water pollution.

In addition to problems posed by the uncertain commitment of Federal assistance, the federal policy assumptions and program direction upon which long-term state and local capital improvement programs are based have often been revised as new personnel come into positions of responsibility at the Department of Interior and the Federal Water Pollution Control Administration (FWPCA) or as new ideas become popular in the water pollution control field. These changes, while not affecting the basic goals of the program, often represent changes of emphasis which have significant cost implications for state and local program participants. The changes of emphasis may represent best theory for achieving success in a clean water program. But to expect rapid compliance by states and localities deeply committed in long-term projects and financing programs which may be difficult and costly to change once they are well underway, discourages further long-term program commitments and creates confusion in the state and local programs which can be detrimental to the overall water quality effort.

Examples of changes in emphasis of the Federal Water Pollution Control program which have caused concern at the local level are those changes relating to the extent to which construction of secondary treatment works will be compulsory as a condition of receiving federal assistance and the extent to which the availability of federal assistance will affect the standards compliance pressure placed on municipalities by the FWPCA. Recent changes have raised the pressures to build secondary treatment works and indicated that strong standards compliance pressure will be applied regardless of the availability of federal assistance.

New discussions of sewage overflow problems and the necessity of separating storm and sanitary sewers or utilizing alternative devices to prevent discharge of raw sewage into waterways during periods of heavy demand on sewer capacity raises the possibility that new policy directives will be issued to cover this area in the near future. Again the changes called for may be good, but if immediate compliance with new directives is expected, costly modification may be required which will delay implementation of existing clean water programs.

DIFFICULTIES OF FWPCA UNIFORM REQUIREMENTS

The problem of shifts in emphasis is created because of attempts by the FWPCA to apply a fixed set of program requirements nationally to a myriad of programs facing very different pollution control challenges. These programs in turn are implemented by governmental units with greatly differing characteristics, each of which must fit its pollution control effort, and many other vital programs, to its limited revenue structure.

An example of the potential difficulties which may develop from imposition of hard and fast program requirements of FWPCA may be found in examination of the now strictly enforced requirement that all municipalities, regardless of individual local need or financial capability, build secondary treatment facilities. Municipalities which could construct primary treatment works but cannot also afford the local share of costs for secondary treatment works may be forced to delay implementation of any treatment program. In addition, the necessity of secondary treatment for all sewage at today's state of program development is not universally accepted doctrine. *The Examination into the Effectiveness of the Construction Grant Program for Abating, Controlling and Preventing Water Pollution,* published in November 1969 by the General Accounting Office (GAO) notes:

"We believe that the assimilative capacity of waterways should be considered in planning for the construction of waste treatment plants. In some cases, secondary treatment at all locations will be insufficient to maintain the desired quality of a waterway, while in other cases only primary treatment may be necessary."

The Department of Interior, in commenting on the GAO report and defending its national application of a secondary treatment requirement, stated that exceptions might be made in the case of some coastal waters.

The concept of broad requirements applied to all individual conditions fails in implementation even within the Interior Department and is severely complicated by the sometimes inconsistent actions of other federal agencies whose responsibilities affect the water pollution control field.

Within FWPCA, the various regional offices apply differing standards to determine eligibility of projects for federal assistance. The problem is particularly important as it relates to determination of eligibility for various segments of interceptor sewer projects. Such differences in eligibility determinations do not appear serious now, but could become so if national policy is revised to place great-

er emphasis on seeking solutions to storm drainage and sewage outflow problems.

Differences with pollution control activities controlled by other departments also exist. Recently these differences have been highlighted in the conflict between Minnesota's desire to maintain its water quality standards and the Atomic Energy Commission's certification allowing construction of a nuclear power plant in that state.

States and localities seeking aid for sewer facility construction have been known to go on shopping trips, shifting their grant application from one agency to another until they find one that accepts the standards of the project they have developed. Such is particularly true of smaller communities which can receive grants for waste treatment or sewage facilities from FWPCA, the Department of Agriculture, the Department of Housing and Urban Development or the Economic Development Administration. Each of these grant programs has separate standards and requirements which a community can choose among.

While Section 10 of the Federal Water Pollution Control Act calls for establishment of water quality criteria and water quality standards and overall state plans to achieve these criteria, it was the opinion of local officials consulted by NLC and USCM that the FWPCA Program has essentially become one of developing and applying effluent standards to particular municipal and industrial polluters with little regard for the actual use intended or the level of water quality established for the affected waterway. This conclusion is backed by the GAO Report which criticized the FWPCA for failure to coordinate its program to achieve most effective water quality results:

"Our examination has shown that FWPCA and the states have not adequately coordinated the planning and the construction of waste treatment facilities with that of other major polluters on a waterway. Rather, the construction of municipal waste treatment facilities appears to have been administered without sufficient regard to what was being planned or done by other municipalities and industries. As a result, significant amounts of federal, state, and local funds have been expended for the construction of waste treatment facilities which, in many cases, have not resulted in obtaining the maximum benefits in terms of improved water quality because major polluters—industrial and municipal—located nearby continued to discharge untreated or inadequately treated wastes into the waterways."

Such a program aimed at individual polluting sources without regard to the quality of the total waterway would appear inconsistent with the purposes of the statute which aims at achieving total water quality improvements in the nation's waterways.

NLC and USCM recommend that administrative procedures be revised to become more consistent with the goals established in the Federal Water Pollution Control Act by placing greater emphasis on overall water quality improvement rather than individual polluting sources. This can be achieved by developing clean water standards which relate to the projected uses of the waterways in question. With these use standards as a base, water quality criteria can be developed consistent with the projected waterway uses. Plans could then be made to meet these criteria expeditiously but also consistent with the particular conditions of the area affected. Such plans would include a coordinated program of improvement for municipalities and industries which may contribute pollution to the affected waterway.

DOLLAR ALLOCATION PRACTICES

Contributing to the confusion of direction in the Federal Water Pollution Control Program is the present system for allocation of dollars for grants to local treatment works under Section 8 of the Federal Water Pollution Control Act. Funds are allocated among states according to a population formula, except for the first $100 million which is allocated on a formula 50% according to population and 50% according to relative per capita income of the state. The money is then distributed within states according to project priority lists prepared by the state and submitted to FWPCA as part of the state water pollution control plans. The priority lists are generally followed without question by FWPCA in making grants.

State control of priority lists has resulted in serious flaws in the program because the states in their priority setting systems have failed to use dollars most productively to encourage projects which could give greatest benefits in pollution control. The GAO Report was critical of the present results of grant distribution according to state controlled priorities for this reason.

There has also been concern that the pollution control needs of major metropolitan areas have not received adequate recognition in this program. The 1969 study of *The Cost of Clean Water*, published by the Interior Department notes: "State priority systems admittedly stress the small town in many cases."

The following chart shows, by population of the municipalities, the number of waste treatment projects for which federal construction grants were made through June 30, 1969, and the amount of the grants.

Population	Number of projects	Federal grants	Percent of grants (cumulative)
Less than 2,500	4,641	$224,368,484	17
2,500 to 5,000	1,359	156,956,004	28
5,001 to 10,000	1,158	187,394,738	42
10,001 to 25,000	1,045	254,855,555	61
25,001 to 50,000	518	175,688,014	74
50,001 to 125,000	334	163,926,363	86
125,001 to 250,000	155	73,773,793	92
250,001 to 500,000	87	36,913,087	95
Over 500,000	148	71,025,224	100
Total	[1] 9,445	[2] 1,344,856,262	

[1] Estimated total cost of the 9,445 projects is $5,351,572,735.
[2] Approximately $1,210,000,000 of this is from FWPCA, the remainder is from other Federal agencies. Total FWPCA appropriations for fiscal years 1957 to 1969 is $1,272,219,260.

A survey by the Municipality of Metropolitan Seattle revealed that 26 major sewage agencies serving 31.8% of the nation's sewered population and controlling 24% of the nation's investment in pollution control facilities have received only 6% of all federal aid for sewage treatment facilities under the Federal Water Pollution Control Act. More specifically, in Ohio 58% of waste treatment facility funds have been distributed to serve the one-quarter of the state's population which lives in counties under 100,000 population, and in Alabama, the city of Birmingham and surrounding Jefferson County had received as of January 1969, less than $1.5 million of $26.7 million allocated to the state, though the city and county contained 15% of the state's population.

There are two reasons for this discrimination against the larger metropolitan areas and failure to use federal pollution control dollars in projects which would be most productive in abating water pollution.

1. For the first decade of its existence the Federal Water Pollution Control Act strongly favored grants to smaller communities. Dollar limits were placed on federal assistance to individual projects which discouraged applications of communities whose programs required multi-million dollar expenditures. The following chart outlines the history of these dollar limitations.

Period	Maximum limitations: Individual projects	Maximum limitations: Multi-municipal projects
July 1, 1965 to June 30, 1961	$250,000	$250,000
July 1, 1961 to June 30, 1965	600,000	2,400,000
July 1, 1965 to June 30, 1967	1,200,000	4,800,000
After June 30, 1967	[1]	[1]

[1] No limit.

Today, the only limitation on grants is in the requirement that at least 50% of the first $100 million appropriated each fiscal year be used for grants for treatment works serving municipalities of under 125,000 population. This limitation does not appear to be a significant factor affecting fund allocations.

2. The second factor adversely affecting dollar distribution in the Federal Water Pollution Control Program is the traditional state pattern of dollar distribution for state controlled federal grant programs. This pattern results in dollars being distributed broadly across the states in relatively small grants with only limited regard to need in order to satisfy the many competing political pressures which are applied to state dollar distributing agencies. Such dollar distribution patterns have resulted in inequitably small allocations of state channelled federal assistance to major urban areas and continue to do so today.

Many state priority setting systems, in addition to recognizing a project's pollution control potential and the readiness of the municipality to proceed with construction, also place major emphasis on factors irrelevant to pollution control such as the median income of the community, per capita costs of the project (with higher per capita cost being, strangely enough, a favorable factor in getting higher priority), and bonded indebtedness of the community.

While it would superficially appear that such priority criteria are aimed at determining the financial need of the community, on closer examination, this is not the case. Many communities with a lower per capita cost or higher median income—factors which lower their position in the priority scale—must provide many more services for their populations than communities which can achieve a higher priority rating. The extent to which a community provides other services which compete for dollars which might otherwise be expended on water pollution control is not considered sufficiently in any state priority setting system. Thus, the community with a low median income, but a cost of $30 per capita for construction of a pollution control facility, is favored over the community with a $20 per capita cost which also must make substantial expenditures for improvement of highways, schools, recreation, etc. which may not be required at all of the unit with the $30 per capita cost for the pollution control facility.

The priority setting structure has also led to the paradoxical situation that many cities which are low on the state priority list are feeling the greatest enforcement pressure to build pollution control facilities to comply with state water quality standards. These cities, generally the larger ones, are placed in such a situation because they are visible in creating major pollution problems that become the basis for public concern and resulting enforcement action. A striking example of this is the city of Toledo, Ohio, against which in September of 1969, the Interior Department initiated a compliance proceeding to force construction of a waste treatment works. Though Toledo was the first city

against which enforcement action was directed, it stands fifty-first on the Ohio fiscal 1970 priority list and as such, may not even receive a grant under Ohio's allocation of the $800 million appropriation for fiscal 1970.

NLC and USCM recommended that state priority setting systems be revised to emphasize effectiveness of projects in abating water pollution. Included in this redirection should be an amendment to the Federal Water Pollution Control Act to place emphasis on pollution control effectiveness in priority setting.

The state by state need levels are also no longer consistent with the dollar distribution formula established in the Act. In the early years of the program, when funding levels were low and there was a universal need to upgrade treatment facilities, a dollar distribution formula generally following population patterns resulted in use of almost all funds allocated to each state. Today, many states with widely dispersed populations have exhausted their capacity to use funds equal to their share of the substantial federal appropriation being made available. For example, in the fall of 1969 Utah, with a population of 1,024,000 indicated ability to use $238,540 in Federal aid while Maine, with a population of 979,000 required $19,737,725 to cover the Federal share of its program. Even among large urban states, need patterns are not consistent. New York indicated a need level nearly thirteen times greater than California. The following chart, listing states in order of population, illustrates the differences in state perceived need levels for federal assistance as of fall, 1969.

States (by population)	1968 population [1]	Fall 1969 needs for FWPCA assistance [2]
California	19,221,000	$100,000,000
New York	18,113,000	1,290,681,200
Pennsylvania	11,712,000	76,300,000
Illinois	10,974,000	128,862,798
Texas	10,972,000	20,327,857
Ohio	10,591,000	44,867,124
Michigan	8,740,000	183,113,623
New Jersey	7,078,000	48,201,480
Florida	6,160,000	37,728,978
Massachusetts	5,437,000	32,000,000
North Carolina	5,135,000	5,653,460
Indiana	5,067,000	34,682,181
Missouri	4,627,000	50,200,000
Virginia	4,597,000	20,195,417
Georgia	4,588,000	35,000,000
Wisconsin	4,213,000	94,324,180
Tennessee	3,976,000	23,818,086
Maryland	3,757,000	48,800,960
Louisiana	3,732,000	7,604,570
Minnesota	3,646,000	18,900,000
Alabama	3,566,000	479,700
Washington	3,276,000	17,086,410
Kentucky	3,229,000	3,082,386
Connecticut	2,959,000	29,591,250
Iowa	2,748,000	6,326,224
South Carolina	2,692,000	12,000,000
Oklahoma	2,518,000	1,882,702
Mississippi	2,342,000	1,764,310
Kansas	2,303,000	3,892,883
Colorado	2,048,000	1,453,652
Arkansas	2,012,000	8,000,000
Oregon	2,008,000	16,017,220
West Virginia	1,805,000	5,141,200
Arizona	1,670,000	1,829,080
Nebraska	1,437,000	3,521,850
Utah	1,024,000	238,540
New Mexico	1,015,000	1,422,423
Maine	979,000	19,737,725
Rhode Island	913,000	7,000,000
Hawaii	778,000	4,000,000
Idaho	705,000	128,000
New Hampshire	702,000	11,222,400
Montana	693,000	305,000
South Dakota	657,000	2,485,581
North Dakota	625,000	134,222
Delaware	534,000	710,350
Nevada	453,000	4,950,068
Vermont	422,000	2,377,870
Wyoming	315,000	275,732
Alaska	277,000	3,000,000

[1] Bureau of Census data.

[2] Federal-aid-needs figures are from FWPCA reported needs as of Aug. 31, 1969, supplemented by data from an October 1969 survey by the Interstate Conference on Water Pollution and the Council of State Governments.

While some states today could not even use their share of a $100,000,000 appropriation the needs of others could not be met even with an appropriation of several billion dollars under the present population related distribution formula.

RIVER BASIN PLANNING

Major changes in the dollar allocation pattern are needed to end the inequity of the present distribution plan and assure most effective use of federal, state and local funds in controlling pollution.

NLC and USCM recommend that water pollution control plans should be developed with the river basin as the essential unit in the planning structure. State boundaries and the state wide pollution control plans and fixed requirements of the Interior Department would become less important in relation to the plan for the individual river basin. Emphasis on the river basin as a basic planning unit will allow development of programs more relevant to the characteristics of a particular area. It will permit individualized problem solving approaches to controlling water pollution with guidance provided by general federal supervision. The basin plans would identify pollution problems and set water quality criteria and pollution control standards for municipalities and industries to meet, as under the present Act. But in addition, the new basin plans would set the financing and enforcement plan and priorities in its projection of the date for compliance with the water quality standards. Thus, the enforcement program would be required to take into account federal, state and local financing capabilities which are the key to local ability to comply with pollution control directives.

These plans and financing and enforcement priority systems would be devised through meetings of local officials with officials of the state or states involved in the river basin program. The federal role would be oversight of the state and local action to assure the goal of cleaner waterways set in the Federal Water Pollution Control Act is met. Such federal action might include providing the mechanisms for states and localities to meet together to develop these pollution control plans where the states were slow to act on their own. Also, FWPCA would work with states and localities as under the present Act, to establish pollution control timetables.

A revision of the program with greater emphasis on basin planning would mean no slackening of the present effort to clean up the nation's waterways. What it would assure is a coordinated effort geared to the particular conditions of a river basin area, giving states and localities greater responsibility in solving their own problems rather than trying to work their special conditions into general guidelines dictated from Washington.

DEPENDABLE FINANCING

It is now clear that the need for high levels of financing for municipal waste treatment works will not end at any time in the near future when any construction backlog of waste treatment works construction is completed. The 1969 report on *The Cost of Clean Water* by the Department of Interior noted:

"Long-held expectations that the investment requirements associated with municipal waste treatment would be eased when some fixed 'backlog' of needed treatment works was worked off do not seem likely to be borne out by events. As treatment deficiencies give way to new plant construction, investment requirements imposed by replacement, upgrading, and treatment of industrial wastes have been taking their place."

In light of this, federal, state and local thinking must be oriented toward long term financing programs, assuring continuously high levels of support for water pollution control efforts.

States and localities will be unable to develop river basin plants with reliable commitments for financing, facility construction and enforcement if the federal commitment of assistance is uncertain. Without this commitment, the first and crucial element of the river basin plan implementation structure—financing—remains tenuous. The inadequacy of the present financing structure is recognized by all. Federal Water Pollution Control Commissioner David D. Dominick, has stated:

"Piecemeal financing and year-to-year uncertainties occasioned by the previous legislation clearly does not allow for the lead time and planning which is required at the state and local level. So one of the top priorities in seeking any resolution to the financing issue is to come up with a program which will give firm assurances as to the future availability of funds and upon which firm planning for construction needs can be based."

The GAO Report cited the failure of adequate federal funding as one of the most serious impediments to success of the present program.

"A serious question exists, however, as to the attainability of the water quality standards by the dates in the implementation schedule because due to federal funding in amounts significantly less than amounts authorized, construction is proceeding at a rate well below that which was anticipated."

The failure of federal funding has also caused serious dislocation in the funding programs of those state and local governments which did commit substantial funds to pollution control activity on the assumption that adequate federal aid would be available. In December of 1969, state and local governments were owed over $760 million as reimbursement for the federal share of costs for approved water pollution control projects which they had constructed using their own resources with the hope that federal funds would later be available to repay them.

Connecticut, Maryland, Massachusetts and New York are states which have been among the leaders in aiding local waste treatment financing programs. Each of these states floated major bond issues to provide the state share of funds, and in each state, clean water funds are being depleted faster than planned because expected federal contributions have not been made. Connecticut has had to float an additional $100 million in bonds to keep its pollution control program on schedule. Maryland Governor Marvin Mandell told a Senate committee that the Maryland Sanitary Facilities Fund, which had been planned to last through 1980, might go broke in 1970 unless more federal funds were forthcoming. And a spring issue, 1969, of the *Daily Bond Buyer* had this to say about New York's problem:

"It is questionable whether Governor Rockefeller's six-year $1 billion pure water program will meet its goals in either cost or timing, a report now completed by the Department of Audit and Control indicates.

"The findings result from a depth study made by staffers in the office of State Comptroller Arthur Levitt and designed to trace the program's progress from its inception on April 1, 1962 through February 29, 1968.

"Unless the Federal Government comes up with more money than is now foreseen, the report indicates the job will require $160 million more in state funds than the $1 billion bond issue provides—an estimate that doesn't allow for escalating construction costs which seem certain.

"The findings also call attention to a lagging timetable which makes it likely that 62 required projects costing $1.5 billion will not be started by March 31, 1972—the current deadline for committing bond monies. It observed that over half of the potential projects were not yet under construction."

Many local governments have faced a similar predicament, having to scrape together extra funds to complete projects for which it was thought federal aid would be available.

Also, the low level of federal funds has discouraged many localities from taking action to build control facilities. The state of Georgia in replying to an October 1969 survey of pollution financing capacities, noted:

"City and county governments have been discouraged from developing abatement programs and applying for federal construction grants because of the gap between federal funds authorized and federal funds appropriated. It is estimated that an additional $25 million in grant applications would have been filed last fiscal year, if authorized federal funds had been appropriated."

For the national water pollution control effort to succeed an entirely new financing structure must be developed consistent with the long term nature of programs which state and local governments must undertake to clean up their waterways. NLC and USCM recommend that the Federal Water Pollution Control Act be amended to allow the federal government to enter into long term commitments obligating a substantially increased level of funds for expenditure over the next five years to provide the federal share of costs of implementing the river basin plans as these plans are developed. Levels of annual expenditure would be assigned to spread use of the obligated funds over the next five year period consistent with the extent to which the funds would likely to be required yearly in implementing the river basin plans. An essential element of the new program would be that obligation levels would be reviewed every two years and new obligational authority and expenditure levels again assigned for five year periods consistent with new need levels identified at the review period.

The long term nature of the program also requires changes in the dollar allocation formula to give greater flexibility to the program in assigning federal assistance to the areas of greatest needs. NLC and USCM recommend that the allocation formula among states be modified. State allocation would be continued according to a population formula to the extent that such allocations are necessary to implement elements of river basin plans within a particular state, but where funds are not needed to implement projects within a state's borders, no more funds would be assigned to that state. The remaining available funds would be divided, again on a population formula, among those states which still require federal assistance to implement elements of approved river basin plans within their borders. Because river basin plans would be of a long term nature, need levels and allocations of dollars under the new program could be determined well in advance of the year of actual expenditures so that the program could proceed expeditiously when federal dollars become available. Where a state did not identify needs equal to its dollar allocation a year in advance of planned expenditure of those funds, expenditure authorizations would be reallocated to projects in other states identifying greater need levels.

MATCHING RATIOS

Another essential element of any new financing program, besides the long term commitment of federal funds, must be a greater assurance to local governments of the matching ratio of federal funds which will be available to them to construct waste treatment works. Currently the local match required for local participation in the program ranges from a low of 20% to a high of 70% or more, all dependent on factors completely beyond control of the individual local unit. The principle variant in this matching ratio is the willingness of the state to contribute 25% of the cost of local projects. However, while the state contribution is a benefit of the local government, the Federal Water Pollution Control Act gives no real incentive to the states themselves to provide any funds. Actually, there is a disincentive to state action in that the set amount of dollars allocated to the states can cover more projects if the state does nothing and federal dollars are distributed on 30% of cost grants, than if the state acts and federal dollars are distributed on 50% of cost grants. In Oregon, the State legislature discontinued participation in the 50% federal, 25% state grant program because federal funds available at 50% grants were not sufficient to cover all projects required by the state's Environmental Quality Control Commission. While the actual reasons for this action were subject to question, the reason the legislature gave was that with discontinuance of state participation, federal assistance would be available to cover more projects.

According to FWPCA data as of December 1969, only 14 states were contributing the full 25% share of program costs to make local programs eligible for the 50% federal matching funds. These were the states of Connecticut, Indiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Wisconsin. Four other states—Delaware, Oregon, Tennessee and Washington—had programs to provide some share of local project costs.

The real stimulus behind those states which have appropriated funds to match local dollars in the pollution control effort appears to be a state level concern with pollution problems rather than any stimulus provided by the federal act. Those localities with severe pollution problems in states where state legislatures fail to commit resources to solving water pollution problems should not, however, be punished financially for such state inaction.

NLC and USCM recommend establishment of a basic 50% matching ratio for all projects, regardless of the degree of state participation in financing the nonfederal share of project costs.

This uniform matching ratio, a 20% increase from the current 30% rate, will give localities greater assurance of the level of federal assistance they can expect. It would not diminish state involvement in financing, since there is no real encouragement to state action under the present program.

An increase in the matching ratio is also necessary because localities are facing increasing difficulties in providing the local share of costs for waste treatment facilities under the present matching ratios. This situation has developed because of the rapidly increasing demands for financing various social programs which are being made upon the limited local revenue base, and the strained condition of the municipal bond market which has created unprecedented difficulties for local governments in obtaining financing for capital projects such as waste treatment facilities. (For detailed discussion of local financial problems, see Appendix A).

Because of the high demands for local expenditures, a number of municipalities have incurred debts up to or closely approaching their bonded indebtedness ceilings. In many cases, a substantial portion of this indebtedness has been incurred for water pollution control programs. Though many municipalities have needs for additional water pollution control facilities, it will be difficult for municipalities which have incurred these debts close to their debt limits to finance much of the cost of these facilities from their own resources. The condition will be aided by an increase in the basic matching ratio to 50%. However, extra support may be needed for municipalities which are at or near limits of available financing for pollution control facilities. Such additional support for future facilities is justified where municipalities have used substantially their own financing resources to build existing facilities with little assistance from the state or federal government. In such cases, their desire to proceed with further improvements should not be constrained by the limits on their financing capability resulting from their prior initiative in constructing pollution control projects without the level of federal assistance provided in the Federal Water Pollution Control Act. NLC and USCM recommend that the level of assistance for projects provided under the Federal Water Pollution Control Act be increased by 20% for those localities which in constructing their existing facilities have received federal or state assistance from any source which, in the aggregate, amounts to less than 20% of the cost of those facilities which would be eligible for assistance under the Federal Water Pollution Control Act.

CONCLUSION

The grant-in-aid program under the Federal Water Pollution Control Act has provided valuable and necessary assistance to state and local water pollution abatement efforts. However, federal aid dollars have not always been used most effectively. Under the present dollar distribution formula and state priority setting practices, federal assistance is not pinpointed on the most severe pollution problems where its use could be most productive. Further, uncertainties resulting from dependence on annual appropriations to support the program have created confusion and costly delays for state and local pollution control efforts in need of federal assistance. NLC and USCM believe that their recommendations can substantially improve the effectiveness of the Federal Water Pollution Control program and lead to significant progress towards the goal of a quality environment in the 1970's.

OTHER ISSUES FOR CONSIDERATION

In addition to the above points upon which specific recommendations are made there are three issues which NLC and USCM believe merit close examination in the review of the Federal Water Pollution Control Act, but upon which specific recommendations cannot be made at this time.

These are:

1. Should land acquisition be an item eligible for federal assistance under the FWPCA program? Presently it is not.

2. Should much greater assistance be available under FWPCA for support of programs to separate storm and sanitary sewers and construct storm sewers? Presently projects relating to separation of storm and sanitary sewers or other devices to meet the problems of sewage overflow are not adequately covered in the Federal Water Pollution Control Act. Increased aid for storm sewer construction is considered particularly necessary as such facilities do not lend themselves to an equitable system of allocating user charges, and thus must depend more on general revenues for financing. In reviewing this question it may be advisable for the Congress to study in detail the progress made to date in research and development efforts supported by the Federal Water Pollution Control Act. New technology might have significant impact in reducing the cost of solutions to the combined sewer problem and generally developing more effective waste treatment programs without the substantial costs now anticipated.

3. What level of need should be recognized in determining the level of federal assistance to be available under Section 8 of the Federal Water Pollution Control Act? This question will be determined in part by the answers to questions 1 and 2 and in part by further examination of the current waste treatment facility needs. Total cost figures are estimated to range as high as $65 billion in the next decade, depending on solutions developed for the storm sewage overflow problem. It would appear from existing data that Federal assistance of at least $10 billion for fiscal years 1972 through 1976 will be absolutely necessary to support the substantial state and local clean water programs which can make

significant progress in abating water pollution.

APPENDIX A—THE LOCAL CAPITAL FINANCING CRISIS, ITS RELATION TO FEDERAL AID ALTERNATIVES

Even if a city is completely committed to action to construct waste treatment facilities, the city may not be a free agent to collect and dedicate the necessary resources to achieve this purpose. Local revenue raising capability, and to some extent, local spending choices are severely constricted by state law:

States tell cities what taxes they may raise, and in some cases how high they may raise them.

States designate who may and who may not be taxed.

States set limits on how much debt may be incurred and what interest rates may be paid, and

States sometimes mandate services which must be performed and what people must be paid to perform them.

From limited local revenue bases, demands for the full variety of municipal services must be filled, and demands for increased commitments of local resources have never been greater. Local government is the government closest to the people, and it is local government toward which people turn first when they need help. With only so much money to go around, difficult choices must be made: better schools or better sewers, more firemen or more social workers, safer streets or cleaner waters.

Compounding the problems of financing local capital improvements today is the strained condition of the municipal bond market.

From September, 1968, the time many experts assign for the beginning of the municipal credit crunch, through December of 1969, over $2.8 billion in state and local bond issues have failed to sell because bids were rejected, no bids were received, or the issues were postponed because of high interest rates. Many of these bonds have been for water resource related projects.

During the last half of 1969, municipal bond yield rates consistently set records, with December rates averaging over 6.5 percent. At current interest rates municipalities will pay more in interest costs than in principal payments on most long term issues for water pollution control. As long as such rates persist, every extra dollar of a Federal grant for capital facilities saves the local government more than two dollars in principal and interest costs for such a project.

NLC and USCM are concerned that the debt service financing approach being discussed as an alternative to direct grants from appropriations will further disrupt the municipal bond market and not accomplish the objectives of the Federal Water Pollution Control program. Testifying before the Senate Commerce Committee in June of 1969, Secretary of Transportation John A. Volpe stated the administration's opposition to debt service financing as it would affect airports: "Because it is inflationary, and because it creates a very long-term commitment for the Federal government, the administration does not favor the debt-service approach." Inflation remains a serious problem. In addition, there are several other reasons why debt service financing is unacceptable as an alternative for financing the clean water effort:

1. The Federal government has a commitment to aid in construction of waste treatment facilities and should not turn to the severely strained local debt market to fulfill this commitment.

2. Use of local bonds to finance the full cost of waste treatment facilities will increase pressures on the local bond market and make capital financing for all municipal facilities—schools, hospitals, airports, waste treatment facilities, etc.—more difficult. An increase in interest rates of only ¼ of 1% could raise interest costs $250,000 to $400,000 on an average $10,000,000 bond issue.

3. In communities whose bonded indebtedness is close to statutory debt ceilings, inclusion of the federal share of waste treatment facilities in the allowable local debt may prevent financing of other necessary local programs.

4. Because the contract debt service financing proposal does not propose to cover the interest costs for the Federal share, effective matching ratios for Federally assisted projects would be reduced 50% or more from whatever matching ratio for principal costs is proposed. Even full Federal payment of principal costs would result in a matching ratio of less than 50% at today's interest rates.

5. Those local governments in greatest need of financial assistance—the localities which cannot market bonds because of statutory interest ceilings or because they have incurred debts up to bonded indebtedness limits—would be effectively excluded from participating in the contract debt service financing program because of difficulties they would face in marketing their bonds.

6. Adoption of the contract debt service proposal in one Federal program aiding local capital financing would set a precedent for use of this financing device in other Federal programs, seriously compounding the difficulties discussed above.

SENATE JOINT RESOLUTION 191—INTRODUCTION OF A JOINT RESOLUTION TO REFORM THE ELECTORAL COLLEGE

Mr. ERVIN. Mr. President, I introduce for appropriate reference a joint resolution proposing an amendment to the Constitution reforming the electoral college method of electing the President.

The Senate will soon consider perhaps the most fundamental change ever suggested to our constitutional and political structure and, undoubtedly, one of the most important matters to come before any recent session of Congress. I refer to the matter of changing the way the American people elect their President. As we all know, the House of Representatives has already passed a resolution proposing the abolishment of the electoral college and the institution of a system of direct election. The Senate Judiciary Committee will very shortly consider the direct election proposal along with other proposals for reform.

While I have introduced for many years a proposal which would provide for a proportional counting of each States' electoral votes, at this point I have decided to abandon this method, Senate Joint Resolution 2, in favor of the one which I plan to introduce today. I do this because it is becoming increasingly obvious that, practically speaking, there are now only two alternatives open to the Senate dealing with electoral college reform. One is to pass the direct election proposal, whose easy adaptability to sloganeering has hidden its many dangers, and the other alternative is to do nothing. I find both of these courses unacceptable.

The plan which I propose today has been around for quite awhile. In fact, in 1966 then Attorney General Katzenbach proposed it in his testimony to the House Judiciary Committee. The plan is simple and it only attempts to reform our present system rather than ripping it out by the roots and substituting an untried and drastically different method.

Simply put, my proposal would eliminate electors but would retain the electoral vote system. In other words, it would eliminate the "faithless elector" and would insure that a State's electoral votes would be cast for the plurality winner in the State. Also, under my proposal, if no nominee had an electoral vote majority, the deadlock would be broken by a vote taken at a joint session of Congress on the basis of one vote for each Member of the House and Senate.

Generally, I believe that two fundamental considerations should govern our deliberations on this matter. First, there are certain acknowledged defects in the present process of electing the President which have undermined public confidence therein and clearly require reform. One is the ever-present possibility of a "faithless elector" who does not cast his vote as the majority who chose him directs. Another is the method of selecting the President in the case of an electoral college deadlock. As I have stated, these defects can be corrected quite easily, and without the danger of effecting a radical change in the Nation's political institutions.

The second fundamental point is that despite its minor defects, the electoral college system has unquestionably provided this Nation with the most successful method for electing national leadership known in modern history. It has brought to the Presidency Americans of uncommon talent and wisdom. It has been instrumental in creating a stable, progressive and responsible national leadership which has guided our country for almost two centuries. During this time the electoral system has seen us through crisis after crisis. We have grown from a small coastal, agrarian collection of States to the mightiest industrial Nation on earth. From diverse races, nationalities, creeds, and interests we have been forged into one people under one President and most important, we have changed that President every 4 or 8 years with no disruption, no constitutional crisis, no dispute as to who the successor was to be and whether he had a legitimate claim to the office. Surely Senator John Kennedy was right when he opposed direct election on the floor of the Senate and quoted Falkland:

"When it is not necessary to change, it is necessary not to change."

I believe that my proposed constitutional amendment which would eliminate the acknowledged defects in the present system without making fundamental changes in it is the responsible approach to electoral reform. The unquestionable success of the electoral system for almost 200 years in giving the Nation stable national leadership places a heavy burden of proof upon those who call for radical change. Only one time in its history has the electoral college elected a President who received less popular votes than another presidential candidate. This happened in 1888 when Grover Cleveland lost the election to Benjamin Harrison. Cleveland's voting

edge was only 100,000 votes which could certainly not be considered an overwhelming popular mandate for him. Thus, this is a record no other political institution devised by fallible men can match. I have no confidence that direct election will work as well, and I share with individuals of both parties and many political persuasions that it is extremely ill advised.

Turning to the specifics of my proposal, I believe there is good reason to eliminate the office of elector. Not for 170 years have electors convened in assembly to deliberate the election of the President. Clearly, the original purpose for choosing electors has disappeared. Nevertheless, the present system continues to protect an elector should he decide to exercise his technical constitutional prerogative of voting for whomever he chooses, regardless of the popular vote in his State. While the number of "faithless electors" have been so few as to dispel any widespread alarm, six out of more than 16,000 over the past 182 years, the existence of such a possibility does constitute good reason for eliminating the office of elector.

For almost two centuries, all of a State's electoral votes have been cast for the presidential candidate receiving a plurality of the State's popular votes. I have expressed doubts about this traditional practice in the past; however, coupled with the additional votes which are now given to the smaller States because of their senatorial representation this has been essential to the preservation of our Federal structure. Because it helps preserve our two-party structure, lessens the chance for fraud and contested elections, and is in every way superior to direct election in terms of giving the American people confidence in the new President, I do not believe it should be abolished in favor of the direct election proposal.

In the unlikely event that no candidate for the Presidency receives a majority of electoral votes, I believe that the election of the President should be entrusted to a joint session of Congress, with each Member having one vote. The joint session would choose between the two presidential candidates receiving the largest number of electoral votes. Such a provision would contrast with the present contingency election by the House of Representatives with each State delegation having one vote to be cast according to the majority vote of the State delegation. This proposed alternative in the contingency election would more equitably represent the popular electorate than the present arrangement. It would also eliminate the possibility which exists under the present arrangement of nullifying a State's representation in the balloting when no candidate wins a majority within the State's House delegation. As with the case of the delinquent elector, the reason for unit rule in the contingency House election has disappeared with history. It should be changed.

These three changes meet much of the criticism directed at the present system of electing the President. They would restore public confidence in the system for electing the President. In contrast with direct election, my proposal would not bring about fundamental changes in the fabric of our political system. The merit of this approach—of perfecting the present system—stands in sharp contrast to the likely consequences of direct popular election of the President.

To abolish the electoral system and to substitute direct popular election is not only to substitute one form of election machinery for another, but to affect in unforeseen ways all those other political processes and institutions, at Federal, State, and local levels, which have developed over the years in response to the present system for presidential election. Clearly, providing constitutional guarantees that every vote shall have mathematical equivalence and that every President shall have at least one more popular vote than his nearest opponent is not the only consideration involved in determining the process by which the Nation should select its President.

One of the greatest political traditions of the United States is the two-party system. It would be difficult to overestimate the importance of this tradition to the stability of the Nation's Government and to the continuity in its political life. The development of broadly based national political programs necessary for success in national elections; the creation and maintenance of formal and informal machinery for compromise within both major parties; the subtle but significant emphasis upon political organizations capable of governing a nation rather than political instruments dedicated to sectional or ideological advancement—these are a few of the contributions of America's two-party system.

Any alteration in the institutions and processes of electing the President must be considered with a view as to the possible impact of that alteration on the two-party system.

There can be little doubt that the electoral college system has bolstered the two-party system by discouraging third-party candidates for the Presidency. The particular feature of the present system primarily responsible for this effect is the unit rule. Though not constitutionally required, from an early date in the Nation's history "pledged electors" have traditionally cast their votes for that presidential candidate receiving the largest number of popular votes in the State. By awarding to the winner of a plurality in the State the State's entire electoral vote, the present system requires that any serious presidential contender secure sufficient popular support in States with enough electoral votes to affect the electoral college decision.

With few exceptions, only candidates with a strong enough regional base to capture State electoral votes have seriously challenged the two-party domination of presidential politics. The reasons are spelled out in the statistics of past presidential elections. In 1912 there were two important minor-party candidates, Theodore Roosevelt broke away from the Republican Party and received 4,127,788 popular votes to 6,301,254 for the winner, Woodrow Wilson. While Wilson won 435 electoral votes, Roosevelt captured only 88. Eugene Debs received 901,255 popular votes out of the total vote of approximately 15 million. He won no electoral votes.

Again in 1920 despite the fact that Debs won almost 1,000,000 popular votes out of 26,000,000 cast he had no electoral votes. Senator LaFollette, breaking away from the Republican Party in 1924 won 4,832,532 popular votes, more than one-half the popular total for the losing Democratic nominee, Davis. Nevertheless, while Davis' vote was translated into 136 electoral votes, LaFollette received a meager 13. Finally in 1948, Henry Wallace received a popular vote of 1,157,326 out of approximately 49,000,000 votes cast. He too won no electoral votes. By contrast and in that same election, Strom Thurmond, the States' Rights Party candidate, received a similar popular vote of 1,176,125 but was able to capture 39 electoral votes because of the regional concentration of his popular support.

These lessons of history must have been particularly persuasive during the presidential election of 1968. Among others, Richard N. Goodwin has recently described the impact of electoral college on the temptations of many antiwar critics in 1968 to mount a fourth-party drive for the White House. In an article appearing in the Washington Post, of October 6, 1969, Goodwin states that recognition of the extreme difficulty in winning any electoral votes despite the prospect of a large national popular vote was the primary reason that he and others of similar political views did not challenge the major party presidential candidates. The effect of a "peace candidacy" would most likely have been, in Goodwin's judgment, a further enhancement of the election prospects of the Republican candidate.

Similarly, the appeals to Wallace supporters not to waste their vote—made by Republicans in the South and by Democrats in the North—significantly lowered the popular vote for Wallace in 1968. Under a popular vote system, a four-way race would certainly have prevented Nixon from getting a clear popular majority and conceivably might have necessitated a runoff. The impact on the party ties of candidates for congressional and State offices of such a four-way race would have weakened the party structure seriously in Congress and in the States. One can imagine in future elections, single-issue candidates running in the November election to demonstrate their popular support as a way of gaining influence over the major candidates who will need those votes in the runoff.

The encouragement that direct election would give to minor party candidates could not occur at a worse time than now. Professor Ernest Brown of Harvard Law School reminds us—

> At a time when the country suffers from sharp divisions, we should be cautious lest, though with the best of intentions, we encourage further division and discourage coalition.

Finally, the likelihood of the proliferation of political parties resulting from direct popular election raises the ironic possibility that a system designed to assure the election of a candidate most reflective of the popular will could re-

sult in the continuing election of Presidents by a considerably smaller proportion of the popular vote than has historically been the case. Despite the rejection of a candidate by just a little under 60 percent of the total voting population, under the direct election proposal he could capture the White House if he nevertheless won 40 percent plus one more vote than his nearest opponent. Division of the popular vote by an increased number of serious presidential candidacies would seriously undermine the ability of any candidate to attract that broad popular support which has given the Presidency much of its influence and power. The runoff provision constitutes even further encouragement to minor party candidacies. Even if a candidate is certain of not being able to win the Presidency for himself, he will be tempted to enter the race when he commands enough popular support to force a runoff. His bargaining position in the runoff would be powerful. The likelihood of broadly supported coalition candidates presenting themselves to the electorate would decrease. One issue, doctrinaire candidates would proliferate and devisiveness would abound across the country.

One of the primary criticisms of the present electoral system is the alleged political chaos into which the Nation would be thrown upon the election of a presidential candidate who receives less popular votes than an opponent in the case of a close popular election. Aside from the historical evidence suggesting strongly that this possibility is largely a theoretical concern, the proposal for direct election would appear to offer no more assurance of avoiding political chaos where the Nation is evenly divided as to its choice for President. Ir. many respects it encourages the possibility of close votes, and increases the danger that doubt will surround election of the new President.

In the case of the close popular election, such as in 1960 and 1968, the legitimacy of any candidate to presidential power will be subject to serious question under any system. The adverse public reaction to and the handicapped presidential leadership resulting from a situation in which the electoral vote winner falls a few popular votes shy of an opponent must be weighed against the public dismay and prolonged indecision inevitable in the face of widespread voting fraud allegations. Voting irregularity is of considerably more significance under a system in which any single vote cast in any one State might be determinative of the election. Professor Brown, of Harvard Law School, suggests that the Nation could anticipate a "reexamination of every ballot box and voting machine in the country, not to mention also the records of registration and qualification of voters."

It is important to consider that two voting tabulations—the November election and then the runoff—might be involved, and that both might be subject to allegations of fraud. Furthermore, in the first election it would be necessary not only to ascertain the exact total vote for each major presidential candidate to determine the winner, but it would also be critical to establish the total popular vote cast to determine the necessity for a popular runoff. This would involve the determination of the validity of write-in votes, possibly illegible, possibly for unknown persons of fictitious origin. If a runoff turns on the resolution of contested votes, the runoff campaign would be fought at the same time as the recount of the November election.

All of these difficulties in determining a winner, and then making the transition from one President to another, must take place within the short 10-week period between the November election and the January inauguration which is now exclusively devoted to the formation of the new administration. Without enumerating all the possible difficulties inherent in accurately tabulating the wishes of 70 to 80 million voters, in such circumstances it is easy to imagine strain which would be placed upon the Nation's institutions and the public's patience over the weeks and months following the actual election. Whatever the virtues of direct popular election, the assurance of avoiding chaos in the case of close elections is not one of them.

In contrast, the present system tends to minimize voting fraud allegations by requiring challenges to votes in States with sufficient electoral votes to change the outcome. It also has had the virtue, in the case of close popular elections, of magnifying narrow popular margins of victory. Such exaggeration has tended to secure greater public acceptance of the new President. The significance of this consideration is underlined by the number of times this century in which narrow popular margins have been translated into unquestionable electoral vote victories:

Year	Winner	Percent popular vote	Percent electoral vote
1912	Wilson	46.00	62
1916	do	49.00	52
1948	Truman	50.00	57
1960	Kennedy	50.08	62

Direct popular elections would necessitate uniform Federal voting requirements and centralized administration of presidential election machinery. Because of the States' constitutional authority, voter qualifications do in fact vary from State to State. There is considerably more than an "imaginary line" between the States in the course of a national presidential election. Differences in minimum age requirements, residency requirements, party registration and voting, individual States would be pressured to compete in altering their respective laws regardless of the merits of the alterations, so as to assure the greatest possible political influence for their citizens in a presidential election. Indeed, Senate Joint Resolution 1, as introduced by Senator BAYH and others, proposing direct election, authorizes Congress to establish such uniform rules. A necessary concomitant to direct election, national registration and voting requirements, would represent a radical departure from the traditional constitutional prerogative of the States in this area.

A uniform system for ballot qualifications, a national system for counting and reporting election results, and a centralized agency to assure fairness and to resolve disputes would be required under direct elections. The power of this centralized administration over the presidential election would of necessity be quite considerable. The danger of its misuse is both obvious and frightening. Accusations of election manipulation, whether founded or not, will impair national confidence in the election results. And, again, such a signfiicant involvement by the Federal Government in election procedures would represent an important departure from practices by the past.

Finally, there is, of course, no certainty that voter qualifications and election machinery for State and local elections, continuing under State control, would parallel those for presidential elections. The spectacle of confused citizens registering twice under different requirements, voting at different places and in different ways for State and presidential offices is a likely prospect. There is certainly no need to increase the confusion which already surrounds the citizen's exercise of his franchise.

Direct popular election is likely to affect the very nature of the Presidency. The Presidency is our only national elective office. The man elected to this high office must be President of all the people. But being President of all the people means much more than being elected by 51 percent of the voters on a particular election day as the proponents of direct election would seem to suggest. He must be the President of 200 million people who are engaged in untold different economic and social occupations, who live in large cities, small towns, isolated communities or individual homesteads, and who possess radically different views of what is best for themselves, their communities, and their Nation.

A leader of this Nation must not only represent large numbers of our people; he also must represent a diverse cross section of our people. Mere numbers, 51 percent or 41 percent are not enough. A man elected President because of the overwhelming support from a relatively narrow group of people—perhaps people from a rural, conservative area, or from a highly urban, industrialized area—would be the choice of the majority in one sense only—that of mere numbers. He would not be the representative of all the people's interests.

This is shown dramatically by the results of the 1968 election, if we consider other possible outcomes. In 1968, Hubert Humphrey was the popular choice of 13 States plus the District of Columbia. Had he simply carried New York State by the margin which Lyndon Johnson carried it by in 1964, and maintained his 1968 margin in Massachusetts, he could have lost by narrow margins all of the other States which he won and still have been elected President by over 500,000 votes. He would, however, have been the preferred choice of the voters of just one out of 50 States and the District of Columbia.

In a Federal system such as ours, it is certainly no more acceptable that a man should be President when he is the popular vote winner but the choice of only a handful of States representing a narrow segment of the political spectrum than when he is the winner in the electoral college but the loser in the popular vote.

The electoral system, on the other hand, builds into the process a very necessary element of diversity of support. It requires a winner to reach for national support. It does this by stressing victories in States as units. States are important instruments for defining and reflecting the diversities of the Nation. Each of the individual States are large and varied enough to reflect many, if not most, of the differences, social, economic, class, background, interests, and geography, that make up the entire Nation. Each of them, to an extent, is a microcosm of the diversities of our entire Nation, though the parts are arranged with different emphasis from State to State.

Certainly, a candidate who is the choice of a large number of States will have had to appeal and gain the support of a diversified group of interests. He will have to have a broad base of support and approval throughout the Nation. By requiring him to win States as units, and by making the total he must get large enough, the present electoral system satisfies this essential requirement for national leadership. The man who wins under this system is truly the choice, not only of the majority of voters, but of a majority which is as diverse in its interests as it is spread throughout the country.

Mr. President, there are many other reasons why direct election is not an advisable system to adopt for election of the President. These can be elaborated on at great length, and as the debate develops, I intend to do so from time to time. These statements will show, as I have tried to do so today, that electoral reform is not a Republican or Democratic issue, or a liberal versus conservative issue. In some ways, direct election will hurt liberal interests, in other ways it will help them. Similarly direct election may weaken conservative political power in some ways, and strengthen it in others. Basically, however, direct election will shake the political and constitutional strength of our Nation, and this is something all parties and all political groups should join in preventing.

Mr. President, at this time, I ask unanimous consent that the text of my proposed constitutional amendment be printed in full in the RECORD. Also, for the information of the Senate, I ask unanimous consent to insert in the RECORD following the printing of my joint resolution an article by Prof. Alexander Bickel of Yale Law School from the December 1968 Commentary magazine entitled "Is Electoral Reform the Answer?"; a review of Professor Bickel's book "The New Age of Political Reform," written by Prof. Ernest J. Brown of the Harvard Law School, which appeared in the December 1969 volume of the Pennsylvania Law Review; an article by Theodore H. White from the January 30, 1970 issue of Life magazine entitled "Direct Elections: An Invitation to National Chaos"; and, an article in the Washington Post of October 5, 1969, by Richard N. Goodwin entitled "Electoral College Finds a Defender."

The PRESIDING OFFICER (Mr. BELLMON). The joint resolution will be received and appropriately referred; and, without objection, the joint resolution and other material will be printed in the RECORD.

The joint resolution (S.J. Res. 191) proposing an amendment to the Constitution reforming the electoral college method of electing the President, introduced by Mr. ERVIN, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S.J. RES. 191

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

SECTION 1. The President and the Vice President shall be elected as provided in this article. No person constitutionally ineligible for the office of President shall be eligible for that of Vice President.

SEC. 2. On the Tuesday next after the first Monday in November of the year preceding the year in which the regular term of the President is to begin, unless the Congress shall by law appoint a different day, there shall be held in each State and in the District of Columbia an election in which the people thereof shall cast their votes for President and for Vice President. In such election, each voter shall cast a single vote for two persons, one a candidate for President and the other a candidate for Vice President, who shall have consented to the joining of their names on the ballot. The places and manner of holding the election shall be prescribed in each State by the legislature thereof but shall be subject to regulation by the Congress. The voters in each State shall have the qualifications requisite for persons voting for members of the most numerous branch of the State legislature. The voters in the District of Columbia shall have the qualifications prescribed by the Congress.

There shall be cast for the persons receiving the greatest number of votes for President and Vice President in each State a number of electoral votes equal to the whole number of Senators and Representatives to which that State may be entitled in the Congress. There shall be cast for the persons receiving the greatest number of votes for President and for Vice President in the District of Columbia a number of electoral votes equal to the whole number of Senators and Representatives to which the District would be entitled in the Congress if it were a State, but in no event more than the number cast by the least populous State.

Within forty-five days after the election, or at such other times as the Congress may direct, the official custodian of the election returns of each State and of the District of Columbia shall prepare, sign, certify, and transmit sealed to the seat of the Government of the United States, directed to the president of the Senate, a list of all persons for whom votes were cast for President and a separate list of all persons for whom votes were cast for Vice President. Upon each such list there shall be entered the number of votes cast for each person whose name appears thereon, the total number of votes cast for all such persons, and the name of the person for whom the electoral votes of such State or District are cast.

SEC. 3. On the 6th day of January following the election, unless the Congress shall by law appoint a different day not earlier than the 4th day of January and not later than the 10th day of January, the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the electoral votes shall then be counted. The person having the greatest number of votes for President shall be the President, and the person having the greatest number of votes for Vice President shall be the Vice President, if such number be a majority of the whole number of electoral votes. If no person has a majority of the whole number of electoral votes for President or for Vice President, then from the two persons receiving the highest number of electoral votes for such office the Senate and the House of Representatives sitting in joint session shall immediately choose such officer by ballot. A quorum for this purpose shall consist of three-fourths of the whole number of the Senators and Representatives. The vote of each Member of each House shall be publicly announced and recorded, and in addition there shall be cast for the person for whom the electoral votes of the District of Columbia were cast a number of votes equal to the number of such electoral votes. The person receiving the greatest number of votes shall be chosen.

SEC. 4. If, at the time fixed for the counting of the electoral votes as provided in section 3, the person who would have been entitled to receive a majority of the electoral votes for President shall have died, the person who is entitled to receive the majority of the electoral votes for Vice President shall be President.

The Congress may by law provide for the case of the death of any of the persons for whom the Senate and the House of Representatives may choose a President or a Vice President whenever the right of choice shall have devolved upon them; for the case of the death of both the persons who, except for their death, would have been entitled to become President and Vice President; and for the case of the death or withdrawal, prior to the election provided for in Section 2, of a candidate for President or for Vice President.

SEC. 5. The Congress shall have power to enforce this article by appropriate legislation.

The articles, presented by Mr. ERVIN, are as follows:

THE NEW AGE OF POLITICAL REFORM

(By Alexander M. Bickel)

OCTOBER, 1969.

DEAR SENATOR: Permit me to commend to you Alexander Bickel's small but valuable book, *The New Age of Political Reform.* Professor Bickel is concerned, as I have been concerned, about the effects of S.J. Res. 1, should it be approved and ratified.[1] That resolution is, as I am sure you know, the resolution for a constitutional amendment on electoral change proposed and supported by Senator Birch Bayh, of Indiana, and by the American Bar Association.[2] I respect the purposes of those who support S.J. Res. 1. Indeed, we are, almost all of us, so deeply imbued with respect for the democratic process that any proposal for direct popular election carries an appreciable momentum for acceptance. Nevertheless, the expression of an ideal is not enough, or should not be; we should at least be careful to examine the probable workings of any proposal. This is the great merit of Professor Bickel's book.

Footnotes at end of article.

He is not halted, or satisfied, simply by a call for what is termed "electoral reform." He insists on looking to find and appraising the practical differences, political and institutional, that the proposed "reform" will make. And he insists on considering and appraising alternatives where some change seems called for. If these seem attributes that are to be expected in the consideration of any important public issue, their presence has not been markedly notable in other discussions of the proposed twenty-sixth amendment.

I think that our electoral experience, including particularly several recent campaigns and elections, warns us of some of the things we should not do at least as clearly as it indicates some of the changes that are needed in the method of electing the President and Vice President. I hope that you will find the following comments worthy of your consideration in reaching a decision on S.J. Res. 1. Many of them reflect Professor Bickel's ideas, but the emphasis, or order, is somewhat different. He gives emphasis and priority in discussion to the political costs of the proposed twenty-sixth amendment. I have varied his order and emphasis to suggest greater importance for the institutional costs. We agree that some change is desirable, and would eliminate the individual electors and make some change in the method of choice should no candidate receive a majority of the electoral vote. But before going into that alternative, let me indicate the considerations that appear to bear heavily in an evaluation of S.J. Res. 1.

I. THE RUN-OFF

In my opinion, the most unfortunate feature of S.J. Res. 1 is the provision for a run-off election should no candidate attain forty per cent of the popular vote. I know that Senator Bayh and the ABA Commission justify this provision by suggesting that a figure less than forty per cent would not furnish a sufficient mandate for election to the Presidency, and could weaken the two-party system by encouraging the formation of splinter parties.

The evidence, I suggest, supports the conclusion that the run-off provision would make the very results that Senator Bayh and the ABA Commission seek to avoid more probable. We are not without experience in that area. In the southern states, the run-off is a feature of many primary elections. One sees that in those states it is regularly accompanied by multiple candidacies in the first primary, by the prevalence of personal factions or followings, and by party structures that are at best very loose, even by American standards, and at worst shadowy to nonexistent. The ABA Commission seems oblivious of the effect of a run-off system upon party structure, even in the face of evidence that its own report cites, but appears to misunderstand. In connection with assertions concerning the basis of the two-party system, its report refers to works of Key,[3] Schlattschneider,[4] and Sindler.[5] Yet if one checks those references, particularly the first two, they point strongly to the conclusion that a plurality system of election tends to bring into being and support a two-party organization, whereas the requirement for a run-off encourages the formation of multiple parties, and multiple candidacies. Perhaps even more instructive, though not referred to by the ABA Commission, is the late V. O. Key's notable study, *Southern Politics;* references to the operation and effects of a run-off system appear throughout the book.[6] On more broadly based evidence, Duverger's *Political Parties* reaches even firmer conclusions on the effects of a run-off, or second-election, system.[7]

Cause and effect are, of course, difficult to establish beyond doubt or argument when one considers the structure of political organization or government. But it is not fundamentally difficult to see why the evidence is at least consistent with, and appears rather strongly to support, the conclusion that a run-off system is destructive of two-party organization. A plurality, one-shot election encourages coalition to reach maximum strength. In pure abstraction, a high degree of fragmentation is a mathematical possibility. But the evidence indicates, as one might expect, that in practice a plurality election tends to reduce the serious contenders to two, and to give the winner either an absolute majority or a plurality very close to an absolute majority. Most of our governors and senators are elected in plurality elections. Any appreciable fragmentation of the field is rare, and the winner usually achieves an absolute majority.

But a run-off system offers attractive possibilities for a great many candidacies. First, there is the chance that the electorate might be so split among numerous candidates that one might achieve the run-off with the support of only a minor fraction of the electorate. But the more plausible goal is that even if one does not achieve first or second place in the original contest, any substantial nucleus of support gives great bargaining power should there be a run-off.

The objective of every candidate under a run-off system is thus, at the minimum, to cause a run-off if he himself cannot win. How is this best achieved? In a large and varied electorate, fractionating the electorate along doctrinaire lines is perhaps the most effective method of preventing any candidate's receiving the vote required to win without a run-off. A one-issue doctrinaire candidate thus stands to profit if other one-issue doctrinaire candidates split off enough segments of the electorate to prevent the formation of a majority coalition. Even though their doctrine may squarely oppose his, he is confident that he can amass a nucleus of support sufficient to give him bargaining power in a run-off.

Professor Bickel suggests, and I think correctly, that had the election of 1968 been by direct popular vote, with a run-off provided, we would have had at least one, and possibly several, additional one-issue candidates. "Every consideration that brought forth antiwar candidates for the Democratic nomination would with equal—and greater—validity have propelled an antiwar candidate into the general election."[8] The leading candidates would, in all probability, have achieved not 43 per cent of the popular vote, but some figure much closer to 30 or 33 per cent. I think I need hardly stress the divisive effect upon the country of a campaign conducted under such conditions. Moreover, the candidate who wins in a run-off hardly has a strong mandate. This is particularly true if, as has often been the case in run-off elections, he ran second in the first contest. The majority that supports him in the run-off is at best a reluctant majority, and he remains substantially in pledge to those who swung support to him in the run-off, since it has been demonstrated that he could not have won without them. In addition, recent evidence, including some from mayoralty run-offs, suggests that run-off elections are likely to be particularly doctrinaire, strident, and divisive.

Because a run-off system does tend to produce multiple candidacies and thus to divide the electorate, it is rather meaningless to cite figures, as the ABA Commission Report does,[9] to show that in the past the leading candidate for the Presidency has almost invariably received more than forty per cent of the popular vote. There is little reason to think that that would continue, once a run-off system was put in operation.

It is true that we have something of a rudimentary run-off system at present. I refer, of course, to the fact that the elections of the President and Vice President are transferred to the House and Senate, respectively, if no candidate receives a majority of electoral votes. But this type of run-off is most difficult to achieve, and has in fact not been utilized since 1824, when there was little or no party organization or identification. The reason for the difficulty is clear: it requires not popular votes at large, but a nucleus of electoral votes. Professor Bickel graphically illustrates the difference by reference to the 1948 election, when Senator Strom Thurmond and Mr. Henry Wallace achieved almost the same number of popular votes, but Senator Thurmond achieved thirty-nine electoral votes, and Mr. Wallace none.[10]

But with a substantial regional base, and the prospect of an otherwise close election, our limited run-off system presents the occasional invitation to divisive minor candidacies that would be regularly and quadrennially presented by a run-off after a direct popular election. It is clear that Governor Wallace's strategy and objective in the 1968 campaign was to deny a majority of electors, or electoral votes, to either major candidate, and thereby to achieve great bargaining power. Whether he hoped to achieve this by influencing electoral votes committed to him or to his discretion, or by exerting influence on House delegations, or by both processes, does not alter the picture. By one device or another, if he could prevent a first-round verdict, he sought to be a President-maker. He did not succeed. I suggest that success might have been achieved more easily by Governor Wallace, or by some one or more other one-issue candidates, had the provisions of S.J. Res. 1 controlled the recent election. At a time when the country suffers from sharp divisions, we should be cautious lest, though with the best of intentions, we encourage further division and discourage coalition.

The run-off system mandated by the proposed resolution appears to me to present a substantial threat to the stability of our political institutions—to the pattern that requires any presidential candidate to take a position somewhere near the center of the political spectrum, and to build out from there, if he is to have any chance of success. But even if one believes that a run-off system has the virtues that the ABA Commission attributes to it, would it not be adequate, and wiser, simply to give Congress authority to provide for a run-off, rather than making a rigid constitutional requirement that that system be adopted? If S.J. Res. 1 were adopted and the run-off system proved to be as unfortunate as some of us fear, then it would require a further constitutional amendment to eliminate it. But if Congress were simply given authority to provide for a run-off, we could adopt it, modify it, or abandon it, as experience might dictate. Even if a run-off system were desirable, it is difficult to believe that there is inevitable magic in the 40 per cent figure. Experience might indicate that it would be better if the figure were 45 per cent or 50 per cent, or perhaps even 35 per cent. One hears no justification for freezing the particular details of the resolution into the Constitution, even from staunch supporters of the proposal.

II. NATIONWIDE DIRECT POPULAR ELECTION

If the run-off provision were eliminated, or even modified to make it nonmandatory, the question of nationwide direct popular election of the President and Vice President, as opposed to an election with the popular vote segmented by states, would be much closer on the merits. However, it is both important and appropriate to see what we would gain and what we would lose by substituting a nationwide direct popular vote for a system of segmenting the vote by states under a modification of the present system. Not all of the arguments in support of the change are of equal weight, and there are opposing considerations that require appraisal.

Footnotes at end of article.

A. The myth of minority disenfranchisement

It is said that the present system of segmenting the popular vote by states, rather than providing for a nationwide direct popular vote "cancel[s] all minority votes cast in the state" [11] or "suppresses as an intermediate stage all minority votes cast in a state." [12] This argument means slightly more, than saying that the losers in an election have lost. In a statewide election for Governor or Senator, we do not regard the votes cast for the losing candidate as having no weight, or having been suppressed or cancelled, or those who cast them as having been disfranchised. Those votes and voters fully performed the function of any vote or voter in an election where a single candidate was to be chosen. There were simply not enough of them to elect the loser and defeat the winner. One is confident that Senator Bayh does not regard the votes cast for Mr. Ruckelshaus for Senator from Indiana in November, 1968, as having been cancelled or suppressed, or the Indiana voters who supported Mr. Ruckelshaus as having been disfranchised.

The slight base of meaning in such statements is that it is possible, but barely possible in any practical and nonabstract sense, that a nationwide majority or plurality of popular votes may produce only the second highest number of electoral votes. Except as a matter of remote mathematical chance [13] having little relation to reality or probability, this result can only come about in the event of an extremely close popular vote. It has happened once in our history, in the very close election of 1888.[14] Otherwise, our history of 180 years of presidential elections—many of them with very close popular votes, as in 1960 and 1968—indicates that an electoral majority follows a popular majority or plurality, except that in percentage terms the electoral majority tends almost invariably to be much larger than the popular Schattschneider has demonstrated why this is usually, the case in a districted or segmented representative election system,[15] but the ABA Report does not mention this aspect of his book.

While it may be unfortunate that there is any chance, however, slight, that the winning candidate or party in a presidential election may have received slightly fewer popular votes than the losing candidate or party, the presidential election is not the only area under our constitution where such a result is possible. The House of Representatives may have a Democratic majority though the Republican candidates received a larger total of popular votes, or vice versa. And, of course, the majority of the members of the House will elect a Speaker, one of the most powerful officers of our government, even though that majority of the membership may, in the aggregate, have been chosen by a slight minority of the popular vote. The same may be the case with the third of the Senate chosen in any given election year, or with the Senate as a whole. The only way to eliminate this possibility is to have the House and Senate chosen by proportional representation and a nationwide electorate. Few would believe that the slight risk warrants the radical remedy.

Therefore, though S.J. Res. 1 would guarantee that the candidate who receives the largest number of popular votes becomes President (though, with the run-off system retained, that candidate might well not be the first choice of the majority or plurality), it accomplishes on this score (its principal function) only slightly more than is for all practical purposes completely assured by the present system.

On those occasions where the election is so close that there is some possibility that a result similar to 1888's may come about, we must recognize that in terms of a popular mandate, the election is, as Professor Bickel puts it, a "stand-off, and the question is merely of a convenient device—any convenient device previously agreed upon—for letting one of two men govern." [16] Remembering the large number of persons who because of illness, travel, business, weather, or similar factors may be disabled from voting on a particular day, one must have almost a mystical belief in the arithmetic of simple numbers to believe that under those circumstances the result in 1888 frustrated the national will, and was not an acceptable method of disposing of what was, in terms of political strength, effectively a tie vote.

B. Uncertainty and delay

Two of the three most recent presidential elections have been extremely close in terms of the popular vote. If either election had been conducted under the terms of S.J. Res. 1, we should not have known the result for days or even weeks. The resultant uncertainty and its consequences are perhaps enough to warrant some caution before deciding in favor of a nationwide direct popular vote. But the stage beyond presents even more distressing prospects. I refer to the probability of a nationwide contest following a close presidential election conducted by direct popular vote.

Under our present system of segmentation by states, each segment is insulated from the others. If a question of irregularity arises, it is limited to a particular state. A significant contest is rendered less likely. In 1960, some question was raised concerning the vote count in Illinois. But even if the result had been reversed in that state, it would have left the national electoral result unchanged, and there still would have been no contest. We have had only one contested presidential election, in 1876, but its history strongly suggests that repetitions are to be avoided if possible. If one does occur, under our segmented system, it is at least localized in a few states.

On the other hand, a close and contested presidential election under a nationwide direct popular vote would invite opening every ballot box and every voting machine in the nation to re-examination and challenge. The process of contest might not stop there, considering the magnitude of the prize. It might well require the further step of examining, subject to contest, registration records in every precinct in the country. I think it unnecessary to depict the state of the nation—and of the world—while such a process was in progress. We have, in recent years, seen several state governments paralyzed during gubernatorial election contests. The nation could hardly afford a similar misfortune, magnified to a vastly larger scale.

Consideration of the possibility of contested elections brings to light an added disadvantage of the proposed run-off system. With forty per cent of the vote required to avoid a run-off, the possibility of a nationwide recount and contest to determine whether a run-off was required, is not a remote one. The result might turn upon a few tens or hundreds of votes, even though one candidate had an obvious and substantial plurality. At this stage we would meet a complicating factor not present even in the normal election contest. We would have to determine accurately not only the votes received by the leading candidate or candidates, but also determine with accuracy the total number of votes cast. For example, if it were determined, perhaps after a recount, that the leading candidate had received exactly 32,000,000 votes, then a run-off would be required if the total vote were 80,000,001, but not if it were 79,999,999. This would require the determination of the validity of write-in votes, possibly illegible, possibly for unknown persons who might be fictitious or historical characters. The total number of votes would be as significant a number, and equally subject to contest, as the votes for a given candidate. The grounds of question and contest would be innumerable.

C. National primaries

One can hardly consider election procedures without giving some thought to nominating procedures as well. Very probably, our national party conventions, as now conducted, do not constitute an ideal nominating process, though the system undoubtedly has functions and merits that the television cameras do not disclose. One of Professor Bickel's most thoughtful and valuable chapters analyzes the functions of the convention system, appraises its performance, and makes suggestions for improving a process in which he has been personally involved. Happily, there is movement to bring a substantial number of these improvements into being.

If we are to adopt a system of nationwide direct popular vote for the election of the President and Vice President, it is beyond question that the nominating procedure must change radically. Our national parties are coalitions or amalgams of state party units. The present nominating system reflects that fact, and, indeed, it is based upon the current segmented system by which the President and Vice President are elected.

A markedly different system of election would inevitably produce a wholly different nominating system. The nominating system, if it is to have any meaning, must to a substantial degree reflect or be shaped by the system of election. What it would be is difficult to predict. But it is incumbent upon the proponents of a wholly changed election system to give thought as well to the nominating system that would accompany it, and to make explicit to the public what they think that nominating system should be.

Some have suggested national nominating primaries.[17] Possibly that would prove to be an acceptable system, but we can only speculate on what it would produce. It appears that the cost in money and energy would far exceed anything in our experience were we to have nationwide primaries and elections both possibly followed by run-offs. The continuing availability of very large amounts of funds would certainly be a pre-condition to any effective candidacy.

Such a system has one other inevitable cost. As I mentioned earlier, our nominating and election systems have made a position at or near the center of the political spectrum, as it may be defined at any given time, almost always the only position having any chance of success. A nationwide primary nominating system would bring new factors and followings into play. It is not entirely predictable that this would produce a political course veering sharply between left and right. But one can say with some certainty that many of the factors now leading toward stability and gradual adjustment would be removed.

In connection with the highly uncertain shape of political institutions that would follow the adoption of S.J. Res. 1, may I recommend a recent study by Nichols.[18] He demonstrates how our political institutions, slowly and gropingly, over a period of almost sixty years, adjusted to become effective under our constitutional electoral machinery. He recounts the past, but the lesson is clear. Wholly different machinery will call into being wholly different institutions. Unless we are quite sure that we wish to junk our present political institutions in favor of whatever may develop under new election machinery, an appraisal more careful and more practical than the proponents of S.J. Res. 1 have thus far made is clearly required.

D. Limited virtues of the resolution

Let me sum up the balance, as I see it, between the institutional aspects of the na-

Footnotes at end of article.

tionwide direct popular election, on the one hand, and popular election segmented by states, subject to some changes to be noted below, on the other.

The nationwide direct popular election would eliminate the remote possibility that in a very close election the candidate receiving the largest number of popular votes might trail in electoral votes, and thus not be elected. This is really the only item on the plus side contributed by S.J. Res. 1—the elimination of a possibility that has occurred once in 180 years of presidential elections. To weigh against that, we have (1) all the unfortunate aspects of a run-off system, (2) the enhanced risk of uncertainty in results and of damaging election contests, and (3) a wholly unpredictable change in our nominating procedures and in the political institutions shaped by the nominating and electing process.

Perhaps it is not inevitable how this balance should be struck. However, it is my judgment, as it is Professor Bickel's, that the weightier considerations favor the retention of a vote segmented by states, subject to changes to be noted immediately below.

III. IMPROVEMENTS

Some changes in our system would undoubtedly constitute improvements, while causing no significant alterations in our political institutions; almost everyone concerned with our electoral process agrees that at least these changes should be made. The difficulty in effecting them arises because the proponents of direct election, of the district plan, and of the proportional plan wish to go even further in their separate directions. These changes are:

A. Elimination of the individual electors

The elimination of individual electors would remove many of the weaknesses in the present system stressed by the ABA Commission and by Senator Bayh. It would eliminate the problem of the "faithless elector" and the potentially more serious problem of unpledge electors. This latter device, you will recall, was suported by Mississippi and Alabama in 1960. In effect, it permits states having unpledged electors to withhold their effective vote until the result in other states is ascertained. If their electoral vote is then needed to make a majority, they gain tremendous bargaining power. It is, in effect, a variant on Governor Wallace's 1968 strategy. No one has made a substantive argument of any weight in favor of retention of individual electors.

B. Change in the procedure existing today should no candidate receive a majority of electoral votes

As you know, the present system, in that contingency, transfers choice of the President from among the top three candidates to the House, voting by states. The concept behind voting by states in the House, with each state having one vote, may have been appropriate for a loose confederation. Little can be said in favor of it today. Among other faults, it may disable the House from electing at all, because of evenly divided delegations. There is little reason why choice should be made from among the top three rather than the top two. This may be another factor that could disable the House from electing. Several alternatives are possible:

1. Election by the House, with each member casting one vote.

2. Election of both President and Vice President by a joint session of the House and Senate, with each member of either body casting one vote.

3. Election by a plurality of electoral votes, thus eliminating the quasi-run-off now in our system.

I think that the second of these three alternatives would gain the largest measure of support, and it should be entirely acceptable. It was proposed by President Johnson,[19] was sponsored by Senator Bayh[20] before he transferred his allegiance to S.J. Res. 1, and is the choice of Professor Bickel.[21] However, I believe that the third alternative is preferable, for it would strengthen our two-party system by eliminating the incentive for any candidate primarily seeking post-election bargaining power. A majority of electors was required before we had any party structure, when communication was difficult, and when it was contemplated that individual electors would exercise personal choice. Provision for a plurality choice would, I believe, consolidate the electoral vote rather than fractionate it. While the third alternative seems the wisest to me, either the second or the first would be completely acceptable.

These improvements, incorporated in an amendment such as that proposed by President Johnson and sponsored by Senator Bayh, would accomplish another purpose of some importance. They would make explicit in the Constitution the provision that the President was to be elected by popular vote. It is still constitutionally possible, if politically implausible, to have electors chosen, and the electoral vote determined, by state legislatures or otherwise by state government process. And such an amendment would give to Congress a regulatory power over presidential elections similar to that which it has over elections of Representatives and Senators. At present, the constitutional basis of its power over presidential elections is at best tenuous.[22]

I have set forth above what I consider the institutional aspects of S.J. Res. 1, and Professor Bickel recognizes these as serious and important. But he gives initial emphasis to the great shift in political power that would be occasioned by the adoption of the proposed twenty-sixth amendment.

Under the present system of giving each state the number of electoral votes that it has members of the House and Senate, the least populous states gain some increment in power because of their two "senatorial" electors and by virtue of the fact that each state has at least one member of the House, even though its population is as small as Alaska's. On the other hand, the large blocks of electoral votes possessed by the most populous states are the great prizes in a contest for the Presidency. This is the result of the fact that the unit rule is almost universal[23] in the choice of electors, and that these strategically vital blocks of electoral votes go as units to the winners in the several states. How the balance between these increments of power should be struck is not subject to exact determination, but Professor Bickel and most observers believe that it swings substantially to the states of large and, as is most frequently the case, varied population. A President can hardly be elected without carrying at least some of the big and heterogeneous states, and if he carries most of them he is almost sure to be elected. Issues that will carry the large majority of the most populous states may, and often will, elect a President. Hence, candidates and Presidents are responsive to those states of large and varied population, and their political power is great.

It seems wholly clear that the adoption of S.J. Res. 1 would shift power very markedly away from states with large and diverse populations towards the states with more homogeneous populations, whether they be large, or only medium-sized—principally toward the agricultural states of the midwest. At an earlier time, the shift of power might also have been toward the south, but the homogeneous or heterogenous character of the electorate of the south is now rather uncertain.

Close elections show with some clarity the distribution of power under one system or another, and I suggest that the election of 1960 demonstrates how different the distribution of power would be under S.J. Res. 1. If we look at the results of that election, we see that under direct popular election, the then Vice President Nixon's plurality in Nebraska (6 electoral votes) alone (148,011) would have slightly more than offset the then Senator Kennedy's aggregate plurality (147,275) in Pennsylvania (32 electoral votes), New Jersey (16 electoral votes), and Illinois (27 electoral votes). If we substitute Iowa (10 electoral votes: 171,816 plurality for Nixon) for Nebraska we get an ever larger overbalancing of Pennsylvania, New Jersey and Illinois, and if we substitute Kansas (8 electoral votes; 198,261 plurality) we get a still larger overbalancing. In the same election the Indiana result (13 electoral votes; 222,762 plurality for Nixon) would have been more than six times as significant in the determination of the ultimate result as the California result (32 electoral votes; 35,623 plurality for Nixon). And the vote in Massachusetts (16 electoral votes; 510,424 plurality for Kennedy) would have outweighed in significance the result in New York (45 electoral votes; 383,666 plurality for Kennedy).

Such a shift in political power is not insignificant. A President may be President of all the people, but he is likely to be particularly sensitive and responsive to the needs and desires of the constituency that elected him, and that may re-elect him. If we look back to some of the significant legislation of the past eight years that required strong presidential leadership for enactment—the Civil Right Acts of 1964 and 1965, for example—can one think that that legislation would have been enacted if the electoral system that then prevailed had not awarded large blocks of electoral votes to New York, Pennsylvania, New Jersey, Ohio, Illinois, and Michigan?

These political considerations may equally well supply a reason why some should support S.J. Res. 1 as why others should oppose it. I suggest only that one should be aware of these potential shifts of power, whether that gives one ground for support, for opposition, or for disregarding them as immaterial. Professor Bickel writes, I believe, primarily to an audience that would be likely to oppose S.J. Res. 1 if it fully understood the implication for shifts of political power. I think that every voter and every member of Congress should be fully aware of those political implications, whatever the direction in which they might lead him. But I have stressed the institutional implications because, as I see the balance to be struck, those must more generally lead voters and members of Congress to doubt the wisdom of the resolution.

I shall be grateful if you will give these matters your consideration, and I shall be happy if you agree with the conclusions that Professor Bickel and I have reached, though with somewhat different emphasis on our reasons.

Sincerely yours,

ERNEST J. BROWN.

FOOTNOTES

[1] *See also* H.J. Res. 681, a resolution similar in purpose, that was approved by the House of Representatives, 91st Cong., 1st Sess., 115 CONG REC. 8142 (1969), on September 18, 1969 (399 in favor, 70 opposed, 21 not voting).

[2] ABA COMM'N ON ELECTORAL COLLEGE REFORM. REPORT ON ELECTING THE PRESIDENT (1967) [hereinafter cited as ABA REPORT].

[3] V. O. KEY, POLITICS, PARTIES & PRESSURE GROUPS (5th ed. 1964).

[4] E. SCHATTSCHNEIDER, PARTY GOVERNMENT (1942).

[5] A. SINDLER, POLITICAL PARTIES IN THE UNITED STATES (1966).

[6] *See*, V. O. KEY, SOUTHERN POLITICS IN STATE AND NATION 406–23 (1949). *See generally id.*

[7] *See* M. DUVERGER, POLITICAL PARTIES 216–28, 239–45 (1951).

[8] A. BICKEL, THE NEW AGE OF POLITICAL REFORM 16 (1968) [hereinafter cited as BICKEL].

[9] ABA REPORT 8.

[10] BICKEL 15.

[11] ABA REPORT 4.

[12] ABA REPORT 4–5.

[13] The same type of remote mathematical chance will demonstrate that it is possible to obtain a majority in a perfectly apportioned legislature with approximately 26% of the popular vote, if the vote is distributed in just the one way that will produce this result. For example, if a legislature has 100 seats, to obtain a majority, one party must secure 51 seats. If that party receives no votes whatsoever for the 49 seats in the minority, and only 51% of the vote for the seats it wins, its majority is the product of 26% of the vote.

[14] *See* BICKEL 17.

[15] E. SCHATTSCHNEIDER, PARTY GOVERNMENT 74–80 (1942).

[16] BICKEL 17.

[17] *See id.* 21–23 & app. VIII, at 74.

[18] R. NICHOLS, THE INVENTION OF THE AMERICAN POLITICAL PARTIES (1967).

[19] *See* BICKEL 20 & apps. V, VII, at 67, 72.

[20] *Hearings Before the Subcomm. on Constitutional Amendments of the Senate Comm. on the Judiciary, Election of the President,* 89th Cong., 2d Sess. & 90th Cong., 1st Sess. 18–24 (1968).

[21] BICKEL 20.

[22] *Cf.* Burroughs v. United States, 290 U.S. 534 (1934).

[23] It had been universal for many years until Maine provided that a presidential elector should be chosen from each congressional district, and two at large. Maine P.L., Chap. 131 (1969), *amending* ME. REV. STAT. ANN. tit. 21, §§ 1181, 1184 (1964).

IS ELECTORAL REFORM THE ANSWER?

(By Alexander M. Bickel)

For the first time since the Progressive era of sixty years ago, the American political system may be at a point of significant mutation. The Progressive era gave us women's suffrage and the popular election of senators, without which the federal government would surely now seem hopelessly anachronistic; the direct primary, which has become a domesticated household creature; and also the initiative, the referendum, and the recall, which have survived here and there, but for the most part wildly, in a state of nature, owing to lack of regular contact with humans. These reforms answered essentially to the populist idea—identified in the American political tradition with Andrew Jackson and in some measure with everyone else ever since—that the ills of society and its government will be cured by giving a stronger and more certain direction of affairs to a popular majority. Today, as earlier, this idea remains the battle cry of reform. It alone inspired the Supreme Court's reapportionment decisions from 1962 onward, which may be viewed either as having inaugurated the current age of political reform or as a reflection of it; and it alone is the overt inspiration of proposals, for which the performance of the system this season has generated much support, to abolish the electoral college and the Presidential nominating conventions.

Confidence in the majority crosses class and ideological lines; nearly everyone believes that if the majority were but allowed to speak often and loudly enough, it would speak with its own voice. Even for those who would try to control the processes by which a majority is formed, and who would restrain and educate the majority before yielding to its wishes, the democratic faith is, finally, faith in the good will and good sense of the preponderant number of men. Nevertheless the populist principle in its unqualified state is simplistic and insufficient. Over time, it begets a dialectic or illusion and disillusion. Its sanguine slogans sound hollow and become terms of derision with extraordinary rapidity. "The Old Order Changeth," wrote William Allen White in 1910. In 1920, he said to Ray Stannard Baker: "What a God-damned world this is. . . . If anyone had told me ten years ago that our country would be what it is today . . . I should have questioned his reason."

The proclamation of a New Politics will also be recalled in irony later if it is given nothing but a populist content now. It is nice to think that there is an immediate majority out there which necessarily favors great good works, and which consists of persons each moving in an individual orbit, adrift from parties and other structures, and yet capable of exercising power if only every man had one vote. But the body politic is not like that. Majorities do not arise spontaneously and are not found; they must be constructed and then maintained. They are conglomerates of many groups, all of them minorities, each of which must have its share of power, some of which weigh in with intensity of feeling rather than numbers, and some of which must sometimes even be granted a veto, in order that there may be peaceable government enjoying common consent. If this is the Old Politics, it is the part which is a permanent necessity.

Unqualified populists or not, political reformers must in any case proceed with caution. James I spoke of the mystery of the King's power. The institutions of a secular, democratic government do not generally advertise themselves as mysteries. Yet they are. Their actual operation must be assessed, often in sheer wonder, before they are tinkered with, lest great expectations be not only defeated, but mocked by the achievement of their very antithesis. Defeat and mockery, to assert briefly what is common knowledge, were the partial result of the direct primary, and certainly of the referendum, the initiative, and the recall, which turned into tools of minority pressure; and defeated expectations and unwanted consequencies, to assert briefly what will in time also be common knowledge, have followed from the Supreme Court's reapportionment decisions.

There are great virtues in a conservative attitude toward the structural features of government. The sudden abandonment of institutions is an act that reverberates in ways no one can predict, and many come to regret. There may be a time when societies can digest radical structural change: when they are young and pliant, relatively small, containable, and readily understandable; when men can watch the scenery shift without losing their sense of direction. We are not such a society. We are well served by an attachment to institutions that are often the products more of accident than of design, or that no longer answer to their original purposes and plans, but that offer us the comfort of continuity, and challenge our resilience and inventiveness in bending old arrangements to present purposes with no outward change. The English know this secret, and so does the common law that we inherited from them. We have, of course, many institutions and arrangements that, as they function, no longer conform to the original scheme, and we have bent most of them quite effectively to the purposes of our present society, which in all respects differs enormously from the society of nearly two hundred years ago. The Supreme Court is one such institution, and the Presidency itself is another. The fact that we have used them without modifying their structures has lent stability to our society and has built strength and confidence in our people.

THE ELECTORAL COLLEGE

The "Humpty-Dumpty electoral college," as one of its critics has called it, is another old institution put to interesting new uses. Now the chief target of reformers, the electoral college was unquestionably invented to serve ends most of which we no longer care to serve, and most of which it no longer serves. Only in form does it remain what it was invented to be. Pursuant to Article II of the Constitution and the Twelfth Amendment, it still consists of as many electors from each state as the state has senators and representatives, and it still convenes quadrennially to elect a President and a Vice President of the United States. But although it was probably intended and clearly not forbidden to act independently, it has hardly ever done so, certainly not in modern times. Electors compete for the office in a popular election, but with very infrequent exceptions, which have never proved significant, they do so in complete anonymity; electors are pledged to Presidential and Vice-Presidential candidates for whom, if they win by a majority or plurality, they cast their state's electoral vote.

These features of the system, unforeseen and unintended by its originators and sanctioned by custom rather than by the Constitution, have in modern times made the large, populous, heterogeneous states—where bloc voting, as by ethnic or racial minorities or other interest groups, often determines the result—the decisive influence in Presidential elections. Recently, Mr. John F. Branzhaf, III has analyzed the various possible arrangements of electoral votes, and the circumstances in which any given state could change the result of an election. He has also calculated the chances of a voter affecting the outcome in his state, and the chances that the outcome of a national election would then itself be altered. His conclusion is that voters in "states like New York and California have over two and one-half times as much chance to affect the election of the President as residents of some of the smaller states." Pennsylvania, Ohio, Michigan, Illinois, and even the lesser industrial states, are also in advantageous positions. The reason is that while a voter in a large state has less chance of influencing the result in his state (because there are, of course, more people voting) he potentially influences a larger number of electoral votes; and so, despite the apparent dilution of his vote, he actually exercises much greater control over the outcome of the national election. This power he derives directly from the electoral college system.

What we have known to be true, then, is true. We can now establish mathematically why modern Presidents have been particularly sensitive to urban and minority interests—modern Presidents of both parties, that is to say, have been more responsive to urban interests than have other factions in their parties. And only men who can be thus responsive are generally nominated and elected. Goldwater in 1964 is something of an exception; he was nominated. Mr. Nixon in 1968 was no exception. If he made some unfamiliar sounds, that was because of the particular urban mood of the day.

In modern times and in most of our politics, urban interests in the big states have contended against interests that have a more rural, nativist, and Protestant orientation. The latter interests have tended to dominate Congress, the former the Presidency. Urban-rural, pluralist-homogeneous—this has been the great divide in American politics. The task of the Presidential candidate, Republican or Democratic, is to bridge it from either side. The electoral college does not guarantee the Presidency to the Democrats. Rather the system requires both parties at least to make inroads into the urban and ethnic vote in order to win. Mr. Nixon in 1968 barely did, and he barely won. But then it was a three-way race, and some of the Wallace urban vote is to be credited to Nixon, either directly or as a subtraction from Humphrey strength. In any case, the industrial states were, as ever, the decisive battleground. The big

states would matter in any scheme that took account of the popular vote in whatever fashion, directly or with qualifications. But the electoral college as it has evolved is so rigged that the big states count disproportionately. That is its critical attribute.

Each of our major parties is, in consequence, as James M. Burns has recently reminded us, two allied parties—a Congressional party, rural and small-town moderate to conservative in orientation, and a Presidential party, which is substantially more urban-liberal. (How often has it been true that the Republicans have lost Congress to the Democrats, and the urban liberals have lost the Democrats to Congress!) No doubt, the urban electorate is not always progressive, humane, and large-minded, and the more homogeneous rural and small town electorate sometimes is. The drift of attitudes among big city voters is nothing to be proud of just now, nor was it in the early 1950's. On the other hand, the Progressive movement of a half-century ago had deep roots in the rural West and Midwest. Still, the urban and the rural-small town outlooks and interests do generally differ. So long as that remains true, the former should properly exert particular influence through the Presidency because the latter are likely to prevail in Congress.

The difference in interest and outlook may not always obtain. The demography of the United States and its politics will not necessarily abide unaltered, world without end. The country, we are told, is increasingly urban, and TV and the other "media" are, God help us, levelling cultural and other distinctions. But urban is a term that can cover many ways of life; the ethnic and racial composition and the traditions and attitudes of an urbanized Nebraska or Georgia are still not those of New York, Chicago, or Cleveland. If there are major changes in the offing, they are not here yet, and their nature is not readily predicted.

The proposal to abolish the electoral college that is now being actively considered emanated from a special committee set up by the American Bar Association, and it has a very great deal of bipartisan Congressional support. It has even spawned a thoroughly documented and well-argued book. The proposal calls for a constitutional amendment providing for election of Presidents and Vice Presidents by nationwide popular vote, with a run-off in the event that no candidate attains a plurality of 40 per cent. Such a system would put a premium, not on carrying the big industrial states, but on achieving the largest possible majority in the smaller, more homogeneous ones. It would create a Presidency with little or no incentive to act as a counterweight to Congress, and as a particular spokesman for urban and minority groups.

Recognizing that the proposal would most likely achieve this result, advocates of the direct popular election contend that no counterweight is needed, or is any longer proper, in view of the Supreme Court's reapportionment decisions. It was fitting—so the argument goes—for the President to be oriented toward the cities and minority groups so long as Congress looked the other way, but Congress looked the other way because of malapportionment and malapportionment is no more. Hence the reasons, such as they were, for tolerating the undemocratic aberration of the electoral college no longer hold. It is time for the system to be ideologically pure. The Court has said that the Constitution commands equal apportionment. We should, therefore, reapportion the Presidency. In effect, we must now amend the Constitution to make it mean what the Supreme Court has said it means.

This is, in itself, an arresting argument. But its paradoxical nature is not the main thing wrong with it. What is fundamentally wrong is that it fails to take account of a whole order of very different considerations. A system of countervailing centers of power may be better for a country as large and still as diverse as ours than one in which Congress and the President represent more nearly the same constituency. Under the present system we are able to strike a nice balance in our government, and make it an instrument for achieving general consent, rather than merely for working the will of some supposed majority of the moment; therefore, instead of changing the Constitution to make it conform to the Supreme Court's reapportionment decisions, we ought perhaps to work to overturn those decisions.

Even if one accepts the reapportionment decisions and their exclusively majoritarian bias, however, the trouble is that the proponents of the direct popular election wildly overestimate the immediate impact and durability of these decisions, it is, to begin with, impossible without additional constitutional amendment to reapportion the House entirely; state lines prevent. Secondly, it is foolhardy to bank on the permanence of the reapportionment decisions, just exactly as we now know them; they are subject to relitigation every decade, with every census. Third, gerrymanders, which the Court has not yet attempted to control, can accomplish all that the most sophisticated or antiquated malapportionment ever achieved. But fourth and most important, we do not know that Congress is what it is because of malapportionment. It is quite probable that in much larger measure the nature of Congress is determined by its internal methods of distributing power—chiefly the seniority and committee systems. These are very solidly entrenched. They reward length of service and expertise, as in one fashion or another all legislatures, really all permanent institutions, must. Long tenure is, in turn, most often the gift of a homegeneous district, which will tend also to liberate a Congressman from the varied concerns of a closely divided and diverse constituency, and thus enable him to specialize singlemindedly in a branch of legislative business. Congress finally, may be what it is because any districted constituency will vote for a Congressman from a more restricted and probably more conservative perspective than when it vote as part of the entire national constituency in Presidential elections. Herein may lie the explanation of a certain divergence between the Senate, atrociously malapportioned and proof against reform even by constitutional amendment but elected by statewide voters, and the districted House of Representatives. All this means than in any circumstances the President is fairly bound to represent a constituency that is not the same as that of the House, but it means more plainly that Congress cannot be radically changed by reapportionment, and that the system should emphasize and preserve rather than seek to suppress the different orientation of the Presidency.

There is yet another, quite discrete objection to the proposal for direct popular election, which would be sufficient in itself. This is that the monopoly of power enjoyed by the two major parties would not likely survive the demise of the electoral college. Now the dominance of two major parties enables us to achieve a politics of coalition and accommodation rather than of ideological and charismatic fragmentation, governments that are moderate, and a regime that is stable. Without forgetting that of all the mysteries of government the two-party system is perhaps the deepest, one can safely assert that each major party exerts centripetal force; that it ties to itself the ambitions and interests of men who compete for power, discouraging individual forays and hence the sharply-defined ideological or emotional stance; that it makes, indeed, for a climate inhospitable to demagogues; and that it provides by its continuous existence a measure of guidance to the marginally interested voter who is eminently capable of casting his ballot by more irrelevant criteria. The system, in sum, does not altogether take mind out of politics, but it does tend to insure that there are few irreconcilable losers, and that the winners can govern, even though—or perhaps because—there are equally few total victories. Multi-party systems also govern by compromise and coalition; they compromise and coalesce, however, not before the election, but after, having first offered the voter his choice among pure positions. Self-contained ideologies thus take root, and become hard-edged. Accommodation is more difficult, partial, grudging, short-lived, and often impossible. Such a system makes for more mind, perhaps, and certainly less government.

The electoral college deters challenges to the two major parties, because an effective challenge must have not merely some popular appeal, but support of sufficient regional concentration to garner an electoral vote. In 1912, William H. Taft, the real third-party candidate in the extraordinary circumstances of that year, had 23.2 per cent of the popular vote and 8 electoral votes, and in 1924 Robert M. LaFollette had 16.6 per cent and 13 electoral votes. Only from a regional base can a third party penetrate the electoral college. Thus in 1948 Strom Thurmond had such a base, and Henry Wallace did not. Each got 2.4 per cent of the popular vote, but Thurmond had 39 electoral votes, 31 more than Taft in 1912, and Wallace had none. George Wallace this year also ran on about the only issue which still massively unites a region—hence his 45 electoral votes. Otherwise, his 13 per cent of the popular vote would have been as meaningless as Taft's or LaFollette's.

With popular election, non-regional interests that have failed to influence conventions would unquestionably be tempted to enter the general election in the hope of gathering enough votes to bargain with in a run-off. And enough entrants may be foreseen to insure a run-off every time. In such conditions the two major parties could not long sustain themselves. A geographically-based candidacy such as that of George Wallace would have no less incentive to manifest itself under a system of popular election than it does now. All other possible separate candidacies, ideological but not regional, would have more. Thus we would see on a national scale the kind of unstructured politics that characterized much of the single-party South in its heydey. The real election was the Democratic primary, which would draw several candidates, who then sorted themselves out between the first vote and the run-off. Two or four years thence, everything started afresh.

Apart from a theoretical attachment to pure majoritarianism, proponents of the direct popular election of the President rely also on a parade of possible horrible consequences of the present system. Both the electoral college and the direct popular election can produce plurality Presidents, like Nixon in 1968, who come in ahead of their opponents by less than a clear majority of the total popular vote. The electoral college, however, can also bring a minority President into office—that is, one who got fewer popular votes than his runner-up. Yet putting aside an esoteric dispute in 1960 about how to apportion the popular vote in Alabama, there has not been a minority President in this century; and in an election that was not stolen, as in 1876, or thrown into the House, as in 1824, we have had only one such President in our history. But it made little difference that Grover Cleveland lost in 1888 to Benjamin Harrison even though he had 100,000 more votes; he won four years earlier, when he did become President, by only 23,000. It would have made equally little difference if, without affecting the actual result in the electoral college, Mr. Nixon had nosed out John F. Kennedy in 1960 by 100,000, votes, or Mr. Humphrey had prevailed by

a small margin in 1968. When some 70 million votes divide so closely, only an immensely dogmatic majoritarianism would insist that the so-called winner has the sole legitimate claim to office. In truth, there is a stand-off, and the question is merely of a convenient device—any convenient device previously agreed upon—for letting one of two men govern.

Unquestionably, the legitimacy of the electoral college result and the effective discharge of the office would be affected should the loser of the popular vote by a substantial margin win the Presidency. But of this, as past statistics consistently show, the risk is minuscule, and it is offset by the advantages of the electoral college in the more likely case of a close popular vote. For in the electoral college, a narrow popular victory is perceived through a magnifying glass. Indeed, even if it should put a narrow loser in office, the electoral college would probably insure greater acceptance for him than the winner by a very small margin could expect in a system of direct popular election.

Beside electing a minority President, which it is not apt to do, the electoral college is capable of two other tricks, both of which George Wallace has badly frightened people with. Since the Constitution permits the college to act as an independent, deliberative body, individual electors may take it into their heads to behave accordingly, and should no one have a majority of electoral college votes, some uncommitted or third-party electors could certainly play a decisive role. Obviously they should not, since they are obscure men who were not elected to perform a deliberative function. This is an eventuality that should be guarded against, but it calls for perfecting the present system, not for abandoning it. The Johnson administration has proposed a constitutional amendment which would abolish the electors and their college as a physical entity, and would automatically award the total electoral college vote of each state, calculated as at present, to the winner of a majority or plurality of the popular vote in that state.

A difficulty of rather another sort, and one not so easily solved, is the deadlock. The Constitution now provides that should no one succeed in obtaining a majority in the electoral college, the House of Representatives shall elect a President; each state shall have one vote, to be cast in accordance with the wishes of a majority of that state's delegation in the House. One may think it unlikely that patriotic men, committed in virtually every other aspect of their activities to majoritarian principles, would do today what was done in 1824, and vote into office not the winner of the popular vote by a substantial plurality (Andrew Jackson), but his runner-up (John Quincy Adams). Nevertheless, the possibility of intolerable abuse exists, and there is no reason not to guard against it. One suggestion, put forward by Representative Jonathan Bingham of New York, is to have a run-off election still within the electoral college system—that is, a repetition of the previous exercise, but this time between the two top candidates. This has some of the disadvantages of the popular election proposal with its run-off, since it might also tend to make splinter candidacies more profitable and hence more likely. Another possibility, favored by the Johnson administration, is to recognize frankly that in the event of a deadlock a choice is required through a deliberative process, rather than through a process—which by hypothesis has just failed—of registering the popular wish. I shall touch presently in some detail on the coalition-making that precedes the general election in the present system. Deadlock means that it has failed and must be tried again. Coalition-making is a function for representative, deliberative institutions. Congress sitting in joint session and reaching decisions by a majority of the individual votes of its members is the best available deliberative institution for this purpose, and Congress is the institution the Johnson administration proposal would use.

THE NATIONAL PARTY CONVENTION

Originally, Presidential candidates were nominated by Congressional caucuses, but by 1824 this system had come to seem insufficiently representative and was replaced by the national party convention, beginning in 1832. Now that system, too, has come to seem insufficiently representative, and also inadequately deliberative. More and more, as the increasing incidence of first-ballot nominations plainly suggests, it merely registers the previously-expressed wishes of a constituency. What that constituency is, however, whether it is in any sense the masses of party adherents, or merely the professional party cadre, is gravely in question. And so the majoritarian reformers would substitute a national primary election for the convention.

A national primary would undoubtedly attract numerous candidates, and its decisive stage would be the run-off. Consequently, as Nelson Polsby and Aaron Wildavsky have written "the United States might have to restrict its Presidential candidates to wealthy athletes. No man without enormous financial resources could ever raise the millions required for the nominating petition, the first primary, the run-off primary, and the national election; and no one who was not superbly conditioned could survive the pace of all these campaigns." Polsby and Wildavsky argue also that a national primary would badly strain the two-party system, because in periods of the dominance of one of the parties, which of course occur, voters (would be drawn to that party's primary, viewing it as their only real opportunity to participate decisively in the entire electoral process, and they would be drawn in such unnaturally large numbers as to threaten the other party with atrophy.

In any event, a national primary would not avoid the coalition-building function, which must be discharged, whether before or after the general election. The consequence would be merely that this function would be de-institutionalized. Between the first primary and the run-off, men would come together, without structure and without form, and sort out their support for one of the two candidates who had emerged in the leading positions. This would be the time and this would be the fashion of the coalition-forming process in each party, and, ultimately, if Polsby and Wildavsky are right, in one party alone, as—again—in the once solid South.

Of course, if Polsby and Wildavsky are right, the general election would be a formality of little moment, and we would have the least desirable of all systems of direct popular election, one that provides for no prior nominating process of any sort. It would amount to a multi-party system, in which the bargaining that is essential for constituting a government is postponed until after the election. The disadvantages that would follow have been mentioned. They are enormous. But even assuming that Polsby and Wildavsky are too pessimistic, that the two parties would survive, and that the work of making a coalition would proceed in each party between the first primary and the run-off, the upshot would be a coalition-forming procedure scarcely more responsive to an appropriate constituency than the most irresponsible convention we are likely to witness. The two top contenders would have been chosen by popular pluralities, to be sure, though their vote would likely be of the order of 20 to 25 per cent, and whatever choice between them the rest of the candidates and their managers made would require ratification in the run-off, just as convention choices are up for ratification in the election now; but subject to this constraint, which operates equally on the conventions, the candidates and the managers would make their decision in some back room, at least as free of any other constraint as the convention bosses who picked Harding in 1920. This is scarcely what the proponents of the national primary intend, yet it is what they would get—at best.

To reject the national primary is not to concede, however, that the national party convention as we now know it is acceptable. No American political institution is more visible than the convention, and none is less visibly constituted and run. An examination of the 1968 Democratic Convention, for example, reveals some rather remarkable practices, which are common, with an occasional variation, in the Republican party as well. There are states where all or part of the delegation to the national convention is appointed by the governor or state chairman (e.g., Georgia, Louisiana), or by the state executive committee (e.g., New York), which may last have been elected two or four years earlier (e.g., Pennsylvania, Maryland), or by a state convention whose members, in turn, are appointed by local party functionaries (e.g., Michigan, Illinois).

The Democratic Convention was studied in the summer of 1968 by an unofficial, privately-funded Commission on the Democratic Selection of Presidential Nominees, of which Governor, now Senator, Harold F. Hughes of Iowa was chairman. (It was brought together on the initiative of a few delegates who were members of the Convention's Credentials and Rules Committees, and it made recommendations, and issued a report from which the facts about the convention that I am here able to cite are chiefly drawn. Over 600 delegates to the 1968 Convention, the Hughes Commission found—approximately half the number needed to win a nomination—"were selected by processes which have included no means [however indirect] of voter participation since 1966." This is utterly unjustifiable.

A party's professional cadre should, no doubt, have a voice. The professionals are, if nothing else, a faction that deserves represention, and it is sound institutional policy to reward their services with a measure of influence. They symbolize, moreover, the continuity of the party, and play a principal role in giving it an identity. But if they lend the party its character of an "organized appetite," as Felix Frankfurter once wrote, their appetite is sometimes keener for powe. in the organization than for organizing to secure the power of government. At any rate, no one need fear that the professionals will go unrepresented. Even in states where delegates are elected in direct primaries, the cadre knows how to maintain its foothold (as David, Goldman, and Bain have pointed out). The problem in constructing a convention is not to assure a voice for the professionals, but to dislodge them from a controlling position.

Methods of delegate selection that do bear scrutiny, as appointment by the professional cadre will not, are election by a state convention to which representatives are chosen, in turn, either directly or through an additional stage of district conventions, at precinct caucuses open to all party members; and direct election either in a winner-take-all, at-large primary as in California, or in at-large and district primaries, with (e.g., New Hampshire), or without (e.g., New Jersey) an accompanying state-wide preferential poll, in which the people have a chance to vote for actual Presidential candidates.

It would be difficult and unwise to opt on a national basis for any one of these acceptable methods to the exclusion of the other ones. The winner-take-all state primary has its virtues. It is a trial heat, a shakedown cruise for candidates, and a preview for the public. It catches attention and generates interest. Politics is an educational endeavor

before and after it is anything else, and in this endeavor the major state primary helps. The drama is heightened for all concerned by the winner-take-all feature; for the candidate with little support from the professionals, the attractiveness of the primary is enhanced, as for the public is its authenticity as a preview. And the winner-take-all primary injects into the convention's process of judgment a prediction that is more than a guess, and more reliable than a poll, of what the party faces in the general election. But the state-wide, winner-take-all primary as universal practice would avoid few of the shortcomings of a national primary. If a reasonably obvious national winner were turned up, the convention would merely register the choice. Or else, if the state primaries produced no conclusive winner, as would more often happen, the convention's task would be what it is today, but its composition would be most unsuited to a satisfactory performance of that task.

There are, by and large, as I have been implying, two sorts of multi-member democratic institutions: the representative, deliberative assembly, and the body meant to register a single prior decision of its constituency. Congress is the typical institution of the former sort, the electoral college of the latter. Institutions charged with registering the decision of a majority of their constituency should consist of members responsive to that majority, and of no one else. (In 1796, a Federalist voter said of a member of the electoral college: "Do I choose Samuel Miles to determine for me whether John Adams or Thomas Jefferson is the fittest man for President of the United States? No, I choose him to act, not to think.") Deliberative institutions, on the other hand, should reflect as many significant factions in the total constituency as possible. That is why all American legislatures are districted. None is elected at large, to be a creature wholly of the majority, nor does any state send to Congress an entire delegation elected on a statewide basis. It is particularly necessary to represent the minority in a deliberative, assembly that, like the national party convention, sits only briefly and periodically, and has as its sole object the composition of a governing coalition. The minority must be there, quite simply in order that some portion of it may be coalesced with; or more accurately, no relevant majority exists for purposes of constituting such a deliberative assembly until the assembly's own majority-building work is done, and that work can be done only if the total or near-total constituency is present through its delegates. Thus delegations chosen in winner-take-all primaries, speaking for a majority and perhaps a plurality of a state party, are welcome as one element in the mix of the convention, not as the universal element.

Delegations selected in district primaries are likely, subject to the accidents of geography, to represent minorities as well as majorities in a state party, and so are delegations chosen at state conventions whose members were elected at open precinct caucuses—but this last will be so only if one highly important condition has been met. At many precinct caucuses, district conventions, and then state conventions, the unit rule prevails, so that at each stage minorities may be left unrepresented. This is, to be sure, not the practice everywhere, but the Hughes Commission confirmed some of Senator McCarthy's complaints that it was the practice used to his disadvantage by the Democratic party in some states; and used here and there, one may add, by the McCarthy people themselves, when they had the chance. Hence, while accepting the value of the winner-take-all primary in a few states, the Hughes Commission recommended absolute abolition of the unit rule at all levels; it also recommended abolition of any system of "direct appointment" of delegations in whole or in part, by state party executives or other officials, and the selection of delegates by procedures that "permit meaningful popular participation" within a period of not more than "six months before the Convention itself."

Somewhat to everyone else's surprise, and perhaps also to its own, the 1968 Democratic Convention adopted the following resolution offered by a minority of its Rules Committee:

It is understood that a state Democratic Party, in selecting and certifying delegates to the National Convention, thereby undertakes to assure that such delegates have been selected through a process in which all Democratic voters have had full and timely opportunity to participate. In determining whether a state party has compiled with this mandate, the convention shall require that:

(1) The unit rule not be used in any stage of the delegate selection process; and

(2) All feasible efforts have been made to assure that delegates ar selected through party primary, conventions, or committee procedures open to public participation within the calendar year of the National Convention.

This is almost the whole of the Hughes Commission recommendation. In addition, as the Hughes Commission also suggested, the chairman of the Democratic National Committee was instructed to set up a special committee charged with helping the states implement these policies.

The millennium is not yet here. The language of the resolution is in some respects fairly specific—and means that most professional appointment and minority-exclusion practices (in non-primary states) are out. But appointment of some delegates, or in New York, by a state committee itself elected in the year of the convention, remains possible. Even where it is specific and entirely satisfactory, moreover, the policy must be implemented, and there are portions of it which call for further legislative efforts prior to implementation. One surmises from prior experience, unfortunately, that a certain gradualism is likely to characterize implementation of this new policy.

In the course of implementation, a difficult problem is bound to surface, concerning access to the party and adherence to it, or if you will, concerning the definition of the party. One aspect of this problem emerged in the loyalty-oath controversies that have bedeviled the Democratic party for a generation. The American major party is a coalition formed every four years from a center of gravity that is apt to shift every so often. The stable factor is that the center of gravity of the Republicans is generally somewhere to the Right of the Democratic one, and at any rate, always somewhat different. But each party reaches out every four years, the one usually to the Left, the other usually to the Right, and both toward the center of the continuum of public opinion and private interest, in the effort to create as large a governing majority as its centripetal force can command. Therefore, although each has a professional cadre, and although each exerts its centripetal force from a different point on the spectrum of opinion and interest, each is also something of a new coalition every quadrennium. The implications for the loyalty-oath issue, which the Democrats ultimately accepted, are that it is hardly consistent to require any group, as a condition for coming to the convention and engaging in the coalition-making process, to promise beforehand to abide by the result, even though, as may happen, it is affirmatively excluded from the coalition. The convention is the occasion of forming the party for a particular election, and no one can say with detail assurance beforehand what kind of a party it will be. Hence, although the issue was fudged somewhat in the patchwork compromise about the Georgia delegation at the 1968 Democratic Convention, the Democrats require only that delegates promise to use their influence to see to it that the nominees of the convention are listed as Democratic nominees on the ballot in their states, not that they promise necessarily to support the nominees.

The implications for procedures of delegate-selection should be similar. It *ought* not to be necessary, as it is in many states, to have been a registered Democrat or Republican at some prior time in order to participate in a Democratic or Republican primary, or in party caucuses. The party ought each year to be open to all those groups which in that year wish to enter into the process of forming the coalition that will be the Democratic or Republican party. If the parties were as open as they should be, large numbers of people who had voted Democratic in the past might in 1968 have moved to form in the Republican party a coalition around Rockefeller, or Charles Percy, or John Lindsay—candidates oriented more to the Right in some respects than would normally suit them, but more satisfactory than what they foresaw as the probable Democratic nominee. Or anti-Vietnam Republicans might have helped put together in the Democratic party an alliance turning on the war issue, under such a candidate as Eugene McCarthy. But the truly open party would encounter difficulties, more serious in primaries than in local caucuses and conventions, and more serious in precinct caucuses than in state, let alone national, conventions, with their larger membership, more demanding activities, and greater exposure.

The trouble is that each party is periodically a new coalition, all right, but each is also, and ought to be, an organism with a continuous existence, particular characteristics, and a corps of permanently loyal supporters. And the two parties must compete, else there will soon be one, and then many, whether in the guise of parties or factions. What can happen when the permanent loyalists are free to float is exemplified in the few states that do allow cross-over of voters or that might allow, as California did until just recently, cross-filing by candidates. The upshot in California in primaries for state office was the nomination, not infrequently, of the same man in both primaries. This destroyed party competition rather effectively. Nor is competition apt to flourish when there is a cross-over of voters intent on selecting the candidate most desirable from the other party's point of view, the weakest candidate, easiest to beat. The cross-over voter may also be happy with the probable (or certain, if there is no contest) outcome in his own party, and go into the other primary in search of, as nearly as possible, the same result. This is not coalition-building, but coalition duplicating. It is too nearly the same as the joint nomination of a single man through cross-filing. The two parties would not discharge their function if they did not overlap, or if they assumed polar positions, but though the ground on which they maneuver for differentiation is narrow, they must remain distinct in order to remain two. Party caucuses open to everyone are also subject to being captured by forces wishing to short-circuit party competition.

Nothing in the resolution adopted at the 1968 Democratic Convention suggests a way out of this dilemma. The special committee to be established by the Democratic National Committee will need to grapple with it on its own. In the Republican party, any approach to a solution of this problem, as to other reforms, is even more remote. The Democratic committee will probably be inclined at first to go along with restrictive practices, which grant access to the party only to those who have in the past indicated adherence to it, or at least not registered as members of the other party. That would be understandable, but wrong. The open

party, with its risks, is the prime objective. For party habits are strong, and Machiavellian cross-overs, while they occur, are rare. What is more common, and should be encouraged, is unaffiliated floating by voters who, if excluded at the nominating stage, are likely to be disaffected by the limitations of choice in the general election.

Each party should, accordingly, be open in each election year, in primaries and caucuses, to everyone willing at the time to register as a member. The registration would be largely symbolic and would not necessarily exclude cross-overs, if for no other reason than that it would be as impossible as it would be ill-advised to try to bind individuals to vote the party ticket in the general election. But the symbolism would be endowed with some consequences. Certainly it should be stipulated that a voter may participate in the nominating process of only one major party in any given year.

MINOR PARTIES

The survival of the convention and of the two-party system it sustains is not a unanimously shared objective, particularly in this season. Its virtues rather than its imperfections gain for the two-party system its most implacable enemies. The moderate coalition, the sensible accommodation, the muted ideology, the politicians who strive to borrow each other's protective coloration and who jostle one another in the center—all this, the price of broadly-based government, of general acquiescence and of stability, is paid in frustration. The choice in the general election between two candidates either of whom can satisfy most people, or at least radically dissatisfy very few, always leaves some of us with no choice at all. Hence the minor party, a steady obbligato in our political symphony. It is sometimes a regional, and commonly an ideological, interest group, which has not been accommodated because it wants something too precise, too clear-cut, because it wants it on principle now and not later wants all of it, wants it intensely, of course, and wants it when someone who is otherwise in a better position to bargain wants the very opposite with equal intensity.

The minor party is also a group which has summoned the courage to bring prematurely to the fore a basic issue, perhaps a moral one, that the country must face, and in time will face. The word "permaturely" is used here from the point of view of the major parties, the defect of whose virtues is that they are liable to be sluggish in addressing newly arisen fundamental issues, moral ones especially. They are too intent on power to take the risk before they have to. Again and again, minor parties have led from a flank, while the major parties still followed opinion down the middle. In time, the middle has moved, and one of the major parties or both occupy the ground reconnoitered by the minor party; or to change the figure, the major parties, as Disraeli said of Peel and the Whigs, at last catch the minor parties bathing and walk away with their clothes. So it was with the anti-slavery Free Soilers, with the Populists in 1892, with the LaFollette Progressives and even the earlier Eugene V. Debs Socialists—and, to be sure, with the Prohibitionists, who are a useful reminder that the Anti-Masonic, Know-Nothing, Thurmond States' Rights, and George Wallace Independent parties must not go unmentioned, lest small-party romanticism run away with one. But as an outlet for frustration, as often a creative force and a sore of conscience, as an ideological governor to keep major parties from speeding off into an abyss of mindlessness, and even just as a technique for strengthening a group's bargaining position for the future, the minor party would have to be invented if it did not come into existence readily and regularly enough. It is an indispensable part of the system whose beneficent chief aim is to suppress it. And its existence is at any rate constitutionally protected.

The two-party system, as the late Justice Robert H. Jackson once said in another context, is a political practice "which has its origin in custom [and] must rely upon custom for its sanctions." Therefore, even though it is up to state legislatures under Article II, Section 1 of the Constitution to prescribe the maner in which electors who will choose a President and Vice President are themselves to be chosen, an attempt by law to secure the major parties' monopoly of Presidential power would most assuredly fail. It would founder against the Equal Protection Clause of the Fourteenth Amendment, which forbids unreasonable discriminations among voters and also among candidates—which, in other words, safeguards a right to vote free from unreasonable discriminations, and also a right to be a candidate. And it would run afoul as well of the First Amendment, as incorporated into the Due Process Clause of the Fourteenth, for the First Amendment has been interpreted to guarantee a right of effective political association, and that right would be denied by any statute making it impossible to achieve the end for which political association is ultimately undertaken.

It is true that no state actually decrees in so many words that in order to be allowed to vote or run for President or for Presidential elector a person must be a member, or submit himself to the procedures of the Democratic or Republican party. And only Ohio has come near to saying as much indirectly. Ohio allowed no independent, non-party candidacy, and a minor party could place a candidate on the ballot only if it filed a petition signed by voters equal in numbers to 15 per cent of the total vote cast in the last gubernatorial election—in 1968, upwards of 430,000. Additional difficulties were also put in the way. The minor party had to organize itself through primary elections on the same scale as the major ones, and persons who voted in a major party primary at the previous election were not qualified to participate in organizing the minor party. On October 15, 1968, in the first decision of its kind, the Supreme Court held the Ohio scheme unconstitutional. The suit was brought in behalf of George Wallace, whose name the Court ordered placed on the ballot. A federal district judge had remarked at an earlier stage of the case that the "two-party system is not a cliche in Ohio, but a staututorily enforced fact." It is no more.

Other states may not quite make the two-party monopoly a statutory fact, but a great many make life hard for the minor party. The requirement of signatures on a petition in a number equal to 15 per cent of the total vote at a past election, itself a grave impediment, is rare, but Arkansas imposes it also. And a number of states have distribution requirements, which also present serious obstacles. Thus in Idaho a petition must be signed by 3,000 voters, no more than 150 of whom are residents of any single county; Illinois requires 25,000 signatures, with 200 from each of at least 50 counties; and New York requires 12,000, fifty at least from each county. In Florida, where a very substantial portion of the population lives in Dade County, no more than 13.3 per cent of the total number of necessary signatures may come from any single county. Finally, a very large number of states, while they have workable provisions for getting a new ticket on the ballot, set early dates for qualification, as early as March in Pennsylvania and apparently in Alabama; April in Kentucky and West Virginia; May in Michigan and New Jersey; and June, July, and August in many more.

The legal position respecting obstacles of the kind just described is not clear. A court would be unlikely to hold that the states may not encourage the two-party system by giving a certain edge to the major parties. But it is a long way from achievement of this objective to choking off all political action that is not encompassed by the two established parties. The latter the states may not do, and the problem is to define what amounts to doing the latter. In general terms, the courts would probably agree to the proposition that laws which make it impossible for an initially small group of voters to put a candidate on the ballot through a reasonable and not prohibitively expensive effort in a reasonable amount of time are unconstitutional. A criterion such as this should work out to render unconstitutional a requirement for obtaining the signatures of anything over 5 per cent of the electorate.

Under existing analogous judicial decisions, the most vulnerable requirements are those concerning distribution. The Illinois one was upheld by the Supreme Court in 1948 but that was before the Supreme Court's more recent reapportionment decisions. Today it could be strongly argued that any distribtuion requirement is a form of malapportionment, a way of giving more weight to a signature in a small county than in a large one, and therefore invalid under the reapportionment cases—and, one may say in passing, invalid for better reason than malapportionment of a legislature itself.

Early qualifying dates obviously do not in themselves present insuperable barriers. The argument against many of them would be that a state may seek to give an edge to the two established parties, and for that reason discriminate against independent candidates and persons who wish to cast their votes for them, but—administrative and housekeeping necessities to the side—it may discriminate only by means that are rationally suited to favor the two-party system. Now the important third-party movements in our history—George Wallace this year is a point-proving exception—came into being after the two major party conventions, and were enabled to come into being at that time because major party conventions used to be held much earlier than at present. In 1892, Harrison and Cleveland were nominated in June. The Populists, disappointed by the Democrats, met later and nominated a third candidate, General James B. Weaver. In 1912, Theodore Roosevelt fought his heart out in the Republican convention in June. Having been defeated, he formed the Progressive party. Again, in 1924, Coolidge and Davis were nominated in June. The third-party LaFollette candidacy took shape in July. The characteristic American third party, then, consists of a group of people who have tried to exert influence within one of the major parties, have failed, and later decide to work on the outside. States in which there is an early qualifying date tend to force such groups to forego major-party primary and other pre-nomination activity and organize separately early in an election year. For if they do not, they lose all opportunity for action as a third party later. From the point of view of fostering the two-party system this is counter-productive. It is calculated to induce third-party-movements, like the present George Wallace party; calculated to drive people away from the coalition-building process that is the genius of the two-party system, and into a premature and more likely permanent ideological separatism, which is precisely what the two-party system successfully prevents.

Major party conventions now tend to be held in August. Any qualifying date earlier than the end of September or even early in October can hardly be supported by any practical reason having to do with the printing of ballots and the like. The only purpose of earlier qualifying dates, therefore, can be to encourage two-party action and discourage third parties. This is, to a degree, a valid purpose, but to force people to commit themselves to third-party action without trying first to influence the major parties is no way to enhance the two-party system.

It is, of course, not possible to predict just what the courts would do in detail on questions of this kind, but since state election statutes are shot through not only with anti-third party provisions that are wrong on principle, but also with many which positively disserve the objective of protecting the two-party system, wholesale legislative reform is called for, regardless of what the courts may do.

The country, Walter Lippmann wrote in September 1968, "has entered a period of revolutionary change of which no one can foresee the course or the end or the consequences." For, he continued, "the central institutions of the traditional life of man"—the family, the church, the territorial state, the schools, and the universities—"are increasingly unable to command his allegiance and his obedience." Naturally, Mr. Lippmann's diagnosis was that the old two-party system is shattered. This also is the conclusion of many who speak from positions rather radically to the Left of Mr. Lippman's. For myself, I cannot deny it, but my instinct is to disbelieve it. I thought that such a figure as Robert Kennedy would have been capable even this year, let alone four years hence, of restoring a sufficiency of order to what Mr. Lippmann, quoting Erasmus, calls the "irremediable confusion of everything." Men want change, and they turn away, or to George Wallace, because the major parties are sluggish, but they do not turn in either direction inevitably or irremediably; many of those same people turned earlier to Robert Kennedy, and many even to Eugene McCarthy.

This is not the place to speculate on whether the United States deserves a revolution, needs one, or will get one regardless. But short of a revolution, the work of politics in the United States, and the work of politics even for those who set radical social goals, is most effectively and enduringly done within the regime, not in opposition to it as such; within the system whose improvement I advocate, but which I praise. And even if the old two-party system, as Mr. Lippmann says, is shattered without knowing it, and destined to come down, it is hardly arguable that for that reason it should hasten to bring itself down with such innovations of at best unpredictable and at worst baneful effect as the direct popular election of Presidents and the national primary. Nor is there any reason why it should not reform its electoral college, its conventions, and its election laws in ways consistent with its nature and designed to advance its values. After all, the system may yet belie the jeremiads and disappoint the revolutionaries. It may persist in the mystery of survival, and against that event, it might as well improve itself.

ELECTORAL COLLEGE FINDS A DEFENDER

(By Richard N. Goodwin)

Nothing could be more startling or instructive than the unanimity with which the Establishment of politics and media is rushing to embrace a constitutional amendment which might unhinge the entire political structure. For there is good reason to believe that direct popular election of the President might end that two-party system which has helped make the United States the most stable and long-lasting democracy in the history of the world.

Coming, as it does, at a time of deepening national division and ideological strife, that result is even more likely. Yet this immense possibility—a likelihood in my judgment—has been barely mentioned in the curiously muted debate over a proposal to change a constitutional system which has worked well for two centuries.

To make this judgment, one must first separate out the very different issues whose casual blending has seriously obscured discussion. First is the electoral principle itself, in which all the votes allotted to a state go to the candidate with the most popular votes. Second is the legal right of an individual elector to defy the popular will and vote for the candidate of his personal choice. Third is the question of what happens if no candidate receives a majority of electoral votes.

The second and third issues raise a very different problem from the legitimacy of the electoral system itself. It is whether a small group of men acting on their individual opinions and motives, should ever be allowed to select the President. Moreover, this is not just an academic possibility. Electors have gone off on their own, and twice the House of Representatives has chosen as President a man who did not receive a plurality of popular votes. (Jackson and—in a rather sordid way—Tilden were deprived of the presidency by Congress despite popular pluralities.)

Certainly nearly everyone will agree that the modern presidency is too important an office to be filled by private maneuvering, deals and coalitions. Still, these abuses can be forestalled without touching the electoral system itself simply by automatically counting a state's electoral votes for the popular winner and providing that a plurality of electoral votes wins. There could also be a provision for a runoff if the leading candidate fell below a specified percentage.

THE 1888 EXCEPTION

None of this requires eliminating the electoral principle itself, which is an unrelated and far more serious matter. That principle is like many other elements of our constitutional structure. It no longer serves the purpose which the founders intended but has assumed other important and rarely articulated functions.

There is, one must admit, the theoretical possibility that a presidential candidate could receive the most popular votes while his opponent won the most electors. Yet in almost two centuries, this has only happened once—in 1888, when Grover Cleveland lost the election to Benjamin Harrison. Even then, Cleveland's popular edge was only 100,000 votes, hardly an overwhelming popular mandate.

If the system has been accurate for over 80 years, it is even more likely to work in the future. For television and other mass media operate to make an election more than ever an expression of a national mood rather than of differences based on state lines. Thus the direct election proposal violates the single most important rule of constitutional amendment: If something is working, don't change it.

We have never before amended the Constitution in anticipation of possible abuse or on the basis of abstract theory. Only after an abuse has manifested itself, and usually after considerable public pressure, have we acted, and even then with reluctance. Surely this is one of the reasons why the American Constitution has endured while more volatile republics rose and fell.

We must remember that no one really knows why this curious mixture of pure democracy, sectional power, protected interests and divided governments has lasted so long. That ignorance should give us pause before we begin to tinker with the mechanism of the Republic on the basis of abstract democratic theory.

THIRD PARTY POSSIBILITIES

One must equally admit that it is impossible to be certain of the consequences of the projected change to direct elections. Yet it is a fact that the only third parties which have lasted in this country have been those with a geographical base—those that could carry states. The most noteworthy modern example has been the Southern Party, from the Dixiecrats through Wallace.

The others have proved transient, or have never begun, in important part because they could not hope to carry any states and would thus receive no electoral votes. (In 1948 Strom Thurmond and Henry Wallace received approximately the same popular vote but Wallace got no electoral votes to Thurmond's 39. The Southern Party is still with us and the Progressives passed away.)

Many of those who were tempted by third party movements—and I know this from personal experience in 1968—have been discouraged by the knowledge that their activities would only help swing a state's electoral votes to that candidate who was ideologically furthest from them. With only the popular vote at stake, however, regional roots become irrelevant. Groups united by general conviction or special interest might well think it in their interest to form a new party.

Such a party might bargain with one of the major parties in return for an endorsement or offer to withdraw in the course of a campaign in return for endorsement. It might also run candidates in the hope of forcing a runoff election in which its votes would be eagerly and profitably sought. Based on our historical experience, this could prove an extremely fruitful course.

Fifteen of our Presidents have been elected with less than a majority of the popular votes. Therefore, in almost half of our elections, a third party, at least theoretically, could have held the balance of power. And two of our last three elections have been virtual popular ties.

The experience of some of our largest states demonstrates that this is more than a theoretical possibility. We now have four parties in New York State, with both the Liberal and Conservative parties exercising influence far out of proportion to their strength. Nor is Califorina a stranger to third party politics.

Had direct election been in effect last year, we probably would have had an anti-war party (and I would have joined). The possibilities for the future are limitless. Direct election might well bring us a farmers' party, a senior citizens' party, a black party and other groups coalescing around common interest and belief.

A TIME OF FRAGMENTATION

The possibility of multiparty activity is as much a matter of the psychology of presidential politics as of pure reason, which is probably why it is so little discussed, for relatively few of those involved have had direct experience in presidential campaigns. Yet I believe that our history combines with modern experience to demonstrate that the inability to receive any electoral votes has been a powerful deterrent to third and fourth and fifth party movements.

If this is so, then direct election could not come at a worse time—when the tendency to political fragmentation and ideological division is reaching new heights. This, to me, is the central issue of reform and deserves the most serious consideration. (It will always be possible, of course, for a new major party to emerge; that might well happen in 1972, for the first time since the 1850s.)

Other objections to direct election have been rather fully discussed. No great principle is involved in the speculation that it might increase the importance of small states. Purely as a matter of interest, however, I believe that those who anticipate such a consequence would be seriously disappointed.

Most presidential campaigns are directed at a "swing vote" of about 10 to 20 per cent of the electorate. Any candidate in search of those votes must focus his money and efforts on the large states, for that is where the people are and where the most volatile vote is to be found.

In 1968, about half the total vote for the two major candidates came from just seven states. A change of less than 1½ per cent in those states would have canceled out Richard Nixon's entire Southern margin over Hubert Humphrey. No political strategist could wisely advise a candidate to take the slight-

est risk in the big states in order to pick up a few Southern or border states.

Thus if direct election is approved, the proponents of the "New Federalism" will preside over the dissolution of one of the few remaining levers which less populated sections have on national politics. This may be a healthy thing, but it always helps to be clear about what you are doing when you change the Constitution.

NO PURE DEMOCRACY

The electoral college has not only faithfully reflected the popular will; it has usually strengthened it by giving a candidate with a narrow popular margin a far larger electoral mandate. Against this historical experience is now set the argument that the electoral system offends the theoretical democratic principle of "one man, one vote."

This is certainly so, at least in abstract possibility. We must remember, however, that this is not the uniform principle of our government. The Supreme Court, with its power to overrule President and Congress, is responsible to no electorate. And its insulation from popular will has helped strengthen it to protect liberties.

A Senator elected by a few hundred thousand votes in Idaho has as much power over national affairs as a man selected by several million citizens of New York. Yet the Senate has often been a more liberal and principled body than the House. Men like the Secretary of Defense, whose power over our lives far exceeds that of most of our earlier Presidents, are appointed and removed by one man.

Our national government is not a pure democracy, nor does anyone suggest that it should be. None of our institutions of governments acts exactly as the Founding Fathers expected. Yet they have managed to evolve some kind of enduring and relatively fruitful harmony.

The system is not perfect, and I believe we need some fundamental changes. But when we are asked to change an institution as basic as the Electoral College, the only relevant questions are practical ones. How is it working? What are its functions? What will be the consequences of the change? To act on the basis of rhetoric about pure democracy may have threatening consequences for the future of our actual democracy, and would be in a spirit foreign to the Constitution itself.

For all the influence of mass media and fast planes, we are still a continent, sheltering diverse peoples with very different ways of living. The Electoral College has been one of the institutions tending to strengthen the curious, irrational and frustrating political system which has held us together. Before embarking on the irrevocable course of abolition, we should be sure that we understand and are willing to risk the possible results.

DIRECT ELECTIONS AN INVITATION TO NATIONAL CHAOS

(By Theodore H. White)

Last September, in a triumph of noble purpose over common sense, the House passed and has sent to the Senate a proposal to abolish the Federal System.

It is not called that, of course. Put forth as an amendment to the Constitution, the new scheme offers a supposedly better way of electing Presidents. Advanced with the delusive rhetoric of *vox populi, vox Dei*, it not only wipes out the obsolete Electoral College but abolishes the sovereign states as voting units. In the name of The People, it proposes that a giant plebiscite pour all 70,000,000 American votes into a single pool whose winner—whether by 5,000 or 5,000,000—is hailed as National Chief.

American elections are a naked transaction in power—a cruel, brawling year-long adventure swept by profound passion and prejudice. Quite naturally, therefore, Constitution and tradition have tried to limit the sweep of passions, packaging the raw votes within each state, weighing each state's electoral vote proportionately to population, letting each make its own rules and police its own polls.

The new theory holds that an instantaneous direct cascade of votes offers citizens a more responsible choice of leadership—and it is only when one tests high-minded theory against reality that it becomes nightmare.

Since the essence of the proposal is a change in the way votes are counted, the first test must be a hard look at vote-counting as it actually operates. Over most of the United States votes are cast and counted honestly. No one anymore can steal an election that is not close to begin with, and in the past generation vote fraud has diminished dramatically.

Still, anyone who trusts the precise count in Gary, Ind.; Cook County, Ill.; Duval County, Texas; Suffolk County, Mass.; or in half a dozen border and Southern states is out of touch with political reality. Under the present electoral system, however, crooks in such areas are limited to toying with the electoral vote of one state only; and then only when margins are exceptionally tight. Even then, when the dial riggers, ballot stuffers, later counters and recounters are stimulated to play election-night poker with the results, their art is balanced by crooks of the other party playing in the same game.

John F. Kennedy won in 1960 by the tissue-thin margin of 118,550—less than 1/5 of one percent of the national total—in an election stained with outright fraud in at least three states. No one challenged his victory, however, because the big national decision had been made by electoral votes of honest-count states, sealed off from contamination by fraud elsewhere—and because scandal could as well be charged to Republicans as to Democrats. But if, henceforth, all the raw votes from Hawaii to Maine are funneled into one vast pool, and popular results are as close as 1960 and 1968, the pressure to cheat or call recounts must penetrate everywhere—for any vote stolen anywhere in the Union pressures politicians thousands of miles away to balance or protest it. Twice in the past decade, the new proposal would have brought America to chaos.

To enforce honest vote-counting in all the nation's 170,000 precincts, national policing becomes necessary. So, too, do uniform federal laws on voter qualifications. New laws, for example, will have to forbid any state from increasing its share of the total by enfranchising youngsters of 18 (as Kentucky and Georgia do now) while most others limit voting to those over 21. Residence requirements, too, must be made uniform in all states. The centralization required breaches all American tradition.

Reality forces candidates today to plan campaigns on many levels, choosing groups and regions to which they must appeal, importantly educating themselves on local issues in states they seek to carry.

But if states are abolished as voting units, TV becomes absolutely dominant. Campaign strategy changes from delicately assembling a winning coalition of states and becomes a media effort to capture the largest share of the national "vote market." Instead of courting regional party leaders by compromise, candidates will rely on media masters. Issues will be shaped in national TV studios, and the heaviest swat will go to the candidate who raises the most money to buy the best time and most "creative" TV talent.

The most ominous domestic reality today is race confrontation. Black votes count today because blacks vote chiefly in big-city states where they make the margin of difference. No candidate seeking New York's 43 electoral votes, Pennsylvania's 29, Illinois' 26 can avoid courting the black vote that may swing those states. If states are abolished as voting units, the chef political leverage of Negroes is also abolished. Whenever a race issue has been settled by plebiscite—from California's Proposition 14 (on Open Housing) in 1964 to New York's Police Review Board in 1966—the plebiscite vote has put the blacks down. Yet a paradox of the new rhetoric is that Southern conservatives, who have most to gain by the new proposal, oppose it, while Northern liberals, who have most to lose, support it because it is hallowed in the name of The People.

What is wrong in the old system is not state-by-state voting. What is wrong is the anachronistic Electoral College and the mischief anonymous "electors" can perpetrate in the wake of a close election. Even more dangerous is the provision that lets the House, if no candidate has an electoral majority, choose the President by the undemocratic unit rule—one state, one vote. These dangers can be eliminated simply by an amendment which abolishes the Electoral College but retains the electoral vote by each state and which, next, provides that in an election where there is no electoral majority, senators and congressmen, individually voting in joint session and hearing the voices of the people in their districts, will elect a President.

What is right about the old system is the sense of identity it gives Americans. As they march to the polls, Bay States should feel Massachusetts is speaking, Hoosiers should feel Indiana is speaking; blacks and other minorities should feel their votes count; so, too, should Southerners from Tidewater to the Gulf. The Federal System has worked superbly for almost two centuries. It can and should be speedily improved. But to reduce Americans to faceless digits on an enormous tote board, in a plebiscite swept by demagoguery, manipulated by TV, at the mercy of crooked counters—this is an absurdity for which goodwill and noble theory are no justification.

ADDITIONAL COSPONSORS OF BILLS

S. 782

Mr. ERVIN. Mr. President, I ask unanimous consent that, at the next printing, the name of the senior Senator from California (Mr. MURPHY) be added as a cosponsor of S. 782, the Federal employee "bill of rights."

I am happy to report that this brings to 56 the total number of sponsors of this bill which is so urgently needed to secure the liberty accorded by the Constitution to over 3 million American citizens.

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

S. 3164

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Mexico (Mr. MONTOYA) I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor to the bill, S. 3164, to amend the Fair Packaging and Labeling Act to require a packaged perishable food to bear a label specifying the date after which it is not to be sold for consumption.

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

S. 3388

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Delaware (Mr. BOGGS) be added as a cospon-

sor of S. 3388, to establish an Environmental Quality Administration.

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

S. 3528

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. McINTYRE) I ask unanimous consent that, at the next printing, the names of the Senator from Indiana (Mr. HARTKE) and the Senator from Alaska (Mr. STEVENS) be added as cosponsors of S. 3528, to amend the Small Business Act.

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

S. 3552

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. McINTYRE), I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as a cosponsor of S. 3552, to provide certain privileges against disclosure of confidential information obtained by newsmen.

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

S. 3565

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from New Hampshire (Mr. McINTYRE), I ask unanimous consent that, at the next printing, the name of the Senator from Texas (Mr. YARBOROUGH) be added as cosponsor of S. 3565, to provide for the establishment of national standards for warranties made with respect to consumer goods distributed in or affecting interstate commerce, and for other purposes.

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

S. 3566

Mr. MILLER. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Oregon (Mr. HATFIELD) be added as a cosponsor of S. 3566, to establish, within the National Foundation on the Arts and Humanities, a National Council on American Minority History and Culture.

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

S. 3586

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that at the next printing, the name of the Senator from Oklahoma (Mr. HARRIS) be added as a cosponsor of the bill S. 3586, to amend title VII of the Public Health Service Act to establish eligibility of new schools of medicine, dentistry, osteopathy, pharmacy, optometry, veterinary medicine, and podiatry for institutional grants under section 771 thereof, to extend and improve the program relating to training of personnel in the allied health professions, and for other purposes.

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

S. 3604

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Massachusetts (Mr. KENNEDY), I ask unanimous consent that, at the next printing, the name of the Senator from Michigan (Mr. HART) be added as a cosponsor of S. 3604, to authorize the establishment of an older worker community service program.

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

S. 3643

Mr. MILLER. Mr. President, at the request of the Senator from Pennsylvania (Mr. SCOTT), I ask unanimous consent that, at the next printing, the name of the Senator from Indiana (Mr. BAYH) be added as a cosponsor of S. 3643, to provide for the issuance of a gold medal to the widow of the Reverend Doctor Martin Luther King, Jr., and the furnishing of duplicate medals in bronze to the Martin Luther King, Jr., memorial fund at Morehouse College and the Martin Luther King, Jr., Memorial Center at Atlanta, Ga.

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

ADDITIONAL COSPONSOR OF RESOLUTIONS

SENATE RESOLUTION 211

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Massachusetts (Mr. BROOKE), I ask unanimous consent that, at the next printing, the name of the Senator from Pennsylvania (Mr. SCOTT) be added as a cosponsor of Senate Resolution 211, seeking agreement with the Union of Soviet Socialist Republics on limiting offensive and defensive strategic weapons and the suspension of test flights of reentry vehicles.

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

SENATE RESOLUTION 376

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that at its next printing the name of the Senator from Florida (Mr. GURNEY) be added as a cosponsor of the resolution, Senate Resolution 376, authorizing the Committee on Labor and Public Welfare to study research activities conducted to ascertain the causes and develop cures to eliminate cancer.

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

ANNOUNCEMENT OF HEARINGS SCHEDULED ON NOMINATION OF EDWARD B. MILLER OF ILLINOIS TO BE CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD

Mr. YARBOROUGH. Mr. President, I wish to announce a hearing scheduled by the Committee on Labor and Public Welfare on May 7 on the nomination of Mr. Edward B. Miller of Illinois to be Chairman of the National Labor Relations Board.

Anyone wishing to testify on this appointment should notify Robert Harris, staff director of the committee, by April 30.

PRESIDENT NIXON'S SUCCESS IN VIETNAMIZATION

Mr. AIKEN. Mr. President, it seems we are living in an era when good news is no news. And nowhere have I heard over the air or read in any newspaper the fact that the United States for the week ending last Thursday, April 2, withdrew 9,200 of our military personnel from South Vietnam.

This information has been available to anyone who desires it. But it appears now that the President's goal of reducing our forces in South Vietnam to 434,500 by April 15 will be reached several days ahead of schedule.

ORDER OF BUSINESS

Mr. CASE. Mr. President, I ask unanimous consent that I be permitted to proceed for 12 minutes.

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

THE RULE OF GERMANENESS—UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, will the Senator yield without losing his right to the floor?

Mr. CASE. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that for the remainder of the second session of the 91st Congress, the Pastore rule of germaneness of debate shall not begin to run until the conclusion of routine morning business or until the unfinished business is laid before the Senate, whichever comes later.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD of West Virginia. Mr. President, reserving the right to object——

Mr. MILLER. Mr. President, reserving the right to object——

Mr. MANSFIELD. Mr. President, I withdraw the request.

Mr. BYRD of West Virginia. Mr. President, I reserved the right to object merely to ask if the majority leader would be willing to confine the operation of his unanimous-consent request to those statements and to that type of business which is conducted prior to and during the period for the transaction of routine morning business which would not exceed 10 or 15 minutes, so that we would be protected in the event that some item of business at that point were to go on for, say, an hour or an hour and a half.

Mr. MANSFIELD. That was understood. I do not want the Senate to get caught short again by having an unobjected to bill brought up in the morning hour and then have the rule of germaneness apply.

In my opinion, that is indefensible. It runs against the intent of the Senate. It violates the Pastore rule. It was for that reason that I offered the unanimous-consent request, that little bills to which there is no objection do not have the rule of germaneness apply, but that the germaneness rule will apply only after the morning hour and the laying down of the unfinished business.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. GOLDWATER. Mr. President, reserving the right to object——

Mr. MILLER. Mr. President, will the Senator from New Jersey yield for a brief comment?

Mr. CASE. Mr. President, I yield first to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, if there is any argument about the request, I will withdraw it. There are other ways by which I can accomplish its purpose.

Mr. GOLDWATER. Mr. President, under the rule of germaneness I have not been able to make a statement on the floor for the better part of a week.

Mr. MANSFIELD. The Senator is correct. But he was coming in under the rule of germaneness when it actually applied, not during the morning hour or routine morning business.

Mr. GOLDWATER. Mr. President, is it possible to ask unanimous consent to extend the 3 minutes to say 10 minutes in the morning hour?

Mr. MANSFIELD. Yes, indeed.

Mr. GOLDWATER. Mr. President, it was virtually impossible to get the floor during the debate on the Carswell nomination.

Mr. MANSFIELD. Mr. President, I would have no objection.

Mr. MILLER. Mr. President, has the minority leader been consulted?

Mr. MANSFIELD. Yes. The Senator is in full accord with this, because he understands the rule of germaneness.

Mr. MILLER. Mr. President, the Senator from Iowa did not know that. If the minority leader has indicated that he has no objection, I have no objection.

Mr. MANSFIELD. Mr. President, I discussed it with the minority leader as well as the understanding of the interpretation placed on it by the Senator from West Virginia.

The PRESIDING OFFICER. Does the majority leader renew his request?

Mr. MANSFIELD. Yes.

Mr. CASE. Mr. President, I do not believe I know what the request is.

Mr. MANSFIELD. Mr. President, I withdraw it.

Mr. BYRD of West Virginia. Mr. President, I hope the majority leader will not withdraw the request.

Mr. MANSFIELD. Mr. President, I feel remiss at holding up the Senator from New Jersey.

Mr. CASE. Mr. President, I did not know what the request was.

The PRESIDING OFFICER. The clerk will state the request.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Montana (Mr. MANSFIELD) asks unanimous consent that for the remainder of the second session of the 91st Congress, the Pastore rule of germaneness of debate shall not begin to run until the conclusion of routine morning business or until the unfinished business is laid before the Senate, whichever comes later.

The PRESIDING OFFICER. Is there objection?

Mr. MILLER. Mr. President, does the request that was just read include the modification that the Senator from West Virginia proposed?

Mr. MANSFIELD. That is correct. I have so asked that the modification of the Senator from West Virginia be included.

Mr. MILLER. Mr. President, may I have the modification restated?

Mr. BYRD of West Virginia. Mr. President, if I might restate it——

Mr. MANSFIELD. Mr. President, if this goes on for 1 additional minute, I withdraw it. It is too picayune a matter.

The PRESIDING OFFICER. Does the Senator from Montana renew his request?

Mr. MANSFIELD. Mr. President, I object. I withdraw it.

The PRESIDING OFFICER. There is objection.

OPPOSITION TO USE OF SAFEGUARD ABM EXPANSION AS A "BARGAINING COUNTER" IN SALT NEGOTIATIONS

Mr. CASE. Mr. President, two decades of the greatest arms race the world has ever seen have brought the Soviet Union and the United States to the realization that neither country can or will permit the other to achieve a permanent advantage in nuclear capability.

Both nations understand that the nuclear weapons deployed by each deny the other the opportunity of launching a surprise attack without being destroyed in return. They have come to realize that this rough parity is in the interest of each country to preserve. That, of course, is the reason we have been able to enter into the strategic arms limitation talks.

Maintenance of this parity is both the aim and the condition of effective arms limitation. By effective, I mean limitation which will be observed because neither side feels disadvantaged by it. Effective arms limitation will lessen tensions and permit the allocation of resources to more productive purposes.

Conversely, an agreement which either side mistrusts because it believes the other side gains an advantage is obviously worthless. The nation that believes it is disadvantaged will be more determined than ever to "catch up," setting off another round of arms escalation and thereby increasing tensions once more.

But, like all simple truths, this hard-won knowledge which has brought us to Vienna is elusive. It must constantly be restated. Too readily can it be lost in the mechanics of bargaining, tactics, and countertactics. Too easily can each side slip back into the mistaken view of the other side as an opponent to be coerced or outwitted.

There is some evidence that this corrosive process may already be underway.

In recent weeks, a disturbing argument has been resurrected to justify further expansion of the Safeguard anti-ballistic-missile system, an argument which can endanger the very mutual interest and confidence which is vital to successful negotiations. It is privately urged, though seldom publicly stated, that Safeguard expansion must be approved so that it can serve as a "bargaining counter" by the United States in the SALT talks.

The suggestion is that congressional approval of the proposed Safeguard expansion is necessary in order to convince the Soviet Union of a fact of which I think they are well aware—that we, the United States, can and will match them in another arms race if they do not cooperate at Vienna.

I believe that the Congress and the American people should be told in clear terms whether or not the executive branch is requesting the expansion of Safeguard as a negotiating counter in Vienna.

I, for one, will not believe this unless I am forced to. Certainly it is clear that our negotiators at these talks, the Arms Control and Disarmament Agency, do not hold this view.

For understandable reasons, Mr. Gerard Smith, head of this Agency, felt he could not respond directly to my question on this point in recent Foreign Relations Committee hearings. But he did say:

> I do not think that the United States should start new programs just for the sake of trying to establish additional bargaining power. I think there is plenty of bargaining power on our side with our present on-going programs. . . .

The hard advice of those who have dealt with the Soviet Union across the negotiating table is as direct and unequivocal as it is realistic in view of our experience. Again, Mr. Gerard Smith:

> For two nations who are grappling with the immense problem of controlling strategic arms, it probably is more likely that there will be some sort of arrangement if the sides are more nearly alike in strategic forces.

This mutuality of interest in, and the confidence of both sides which comes from, the existing parity in strategic weapons are the condition for successful arms limitation talks. Moreover, their preservation is the goal of such talks. Both are endangered by the use of Safeguard expansion as a bargaining counter.

If Safeguard is approved and if it turns out that the SALT talks are stretched out over a period of years, then this country will have on its hands a burgeoning ABM system, one to which the Soviets would have to respond on the possible chance that it might prove effective. By our actions we will have guaranteed the very continuing Soviet SS–9 deployment which we are seeking to halt, a deployment which, according to Secretary Laird, Safeguard could not defend us against.

There is already some evidence that this "bargaining counter" approach may be feeding Russian suspicions and inspiring fundamental uncertainty regarding the U.S. intentions toward the SALT talks.

As pointed out by Dr. Shulman of Columbia University, the Soviet press recently has been posing two basic questions:

First. Is the United States really prepared to accept approximate strategic parity as a basis for negotiations?

Second. What is the meaning of Amer-

ican moves to deploy MIRV, expand Safeguard, develop a new strategic bomber?

We can be certain that this Soviet puzzlement to some extent is put on for our benefit.

But we also can be certain—if the long years of the cold war have taught us anything—that at least some among the Soviet leadership can be expected to place the worst possible construction on our actions. They will seize upon the fact of Safeguard expansion, if we do go ahead with it, as an immediate threat to be responded to. All they will want to know is whether this so-called bargaining counter shoots missiles. Speculation about American motives they will leave to the philosophers.

Vastly more direct and constructive is the proposal of Senate Resolution 211 that: First, prompt negotiations between the United States and the Soviet Union to seek agreed limitation of both offensive and defensive strategic weapons should be urgently pursued; and second, the President should propose to the Soviet Union an immediate mutual suspension of the further deployment of all offensive and defensive nuclear strategic weapons systems, subject to national verification and other inspection measures as may be appropriate. The Soviet Union well may consider such a freeze in their interest.

Instead of confronting the Soviet Union with Safeguard expansion and letting them figure out what we are really up to, the United States should, in Prof. Roger Fisher's words, present the Soviets with a "yesable proposition," something to which they have only to agree.

That, of course, was the intent and spirit of the resolution which I offered last summer calling upon the President to suspend flight tests of multiple reentry vehicles for so long as the Soviet Union does the same.

Almost 7 years ago, President John F. Kennedy confronted the Soviet Union with a similar proposition, saying:

> . . . I now declare that the United States does not propose to conduct nuclear tests in the atmosphere so long as other states do not do so.

We all are aware that what followed this bold initiative was one of the most important breakthroughs in American-Soviet relations since World War II.

Within 5 days of the President's speech, Chairman Khrushchev had welcomed the proposal and further had ordered a halt in the production of Soviet strategic bombers. Within a month, negotiations were underway on the nuclear test ban treaty. Then, on August 5, 1963—8 weeks to the day following the President's speech—the treaty was signed. It never has been broken.

This initiative did not originate in any wishful view of Soviet good will or out of any expectation of a sudden revolution in human nature. But the President did warn the American people not to look upon communication with the Soviet Union "as nothing more than an exchange of threats." And, as he noted, even the most hostile nations can be relied upon to keep those agreements which are in their own interest.

Mr. President, I emphasize that again because it is the basis of all international relations: The recognition that nations act and will always act in their own interest; that the problem in dealing between countries and among nations is based upon the recognition by each of them that the other will act in this manner; and that the problem is to find things on which agreement can be reached, things which are in the interest of all nations concerned—in this particular case, in the interest of both Russia and the United States. Any other agreement between two nations which is not based on the recognition of this principle cannot be relied upon at all for the future.

The results of President Kennedy's initiative, which reflected this principle, are every day with us in the decreased levels of atmospheric radioactivity and in the health of our children.

The lesson is clear.

Of course there is no prospect that a sweeping, permanent freeze on the deployment of all strategic nuclear weapons, or even of any single major weapon system, can be quickly and easily agreed upon at SALT. But precisely because the SALT negotiations undoubtedly will be lengthy and involved, it is vital that the present rough strategic parity between the Soviet Union and the United States be frozen at its present level while these negotiations take place.

To present the Soviet Union with a specific, "yesable" proposition designed to buy time for these negotiations is no confession of weakness. It is a prudent recognition of our mutual interests and of the realities of modern technology.

The present mutuality of interest between the United States and the Soviet Union must not be endangered in the effort to achieve what could not be even a temporary advantage of bargaining position, one which could only inspire uncertainty and suspicion imperiling the SALT talks themselves.

I urge that the Senate overwhelmingly approve Senate Resolution 211 as it was unanimously reported out by the Senate Foreign Relations Committee and which in its original form had been cosponsored by some 45 Members of the Senate.

Mr. President, I would like to add this observation. We shall be dealing in this body at considerable length somewhat later in this session on the justifications offered by the administration and the Department of Defense for the expansion of the Safeguard anti-ballistic-missile system. Of course, the major justifications were three: The defense of our missile sites, protection against the so-called Chinese threat, and protection against stray or accidental missiles which might be fired and which might have devastating effect in a particular locality.

Many questions will be presented as to the effectiveness of the Safeguard system from the standpoint of its technology. I have not attempted to go into these questions in this talk, since such technical issues must be gone into at length at the proper time.

But at this time I did want to bring out into the open and express my own belief that any further justification—apart from the technical question, apart from the question of the necessity of Safeguard as a weapons system—does not have a sound basis in fact, and, in fact, would be counterproductive; namely, the argument that we need it as a bargaining counter for the SALT talks in Vienna. I think this argument is wholly without a sound basis, and even to urge it could present an added difficulty to the success of the SALT negotiations.

I yield the floor.

Mr. BROOKE. Mr. President, the able Senator from New Jersey (Mr. CASE) has made another of his incisive contributions to this vital debate. I wish to emphasize one of the points he makes; namely, his reference to the character of Soviet discussions of SALT and arms control prospects in general.

It has long been common for some U.S. observers to suggest that the Soviets were not interested in a general freeze on strategic weapons. In particular, some spokesmen in and out of the U.S. Government have implied that the Soviets were not interested in or concerned about MIRV technology and would not agree to a limit on ABM systems.

I believe any such conclusions are plainly unfounded. We do not yet know what the Soviets may be willing to accept and will not find out until firm proposals have been thrashed out. That is why it is so essential for the United States to advance a concrete, comprehensive plan when the SALT talks resume in Vienna.

Much has been made in the West of a comment by Premier Kosygin some years ago indicating that defensive weapons were not destabilizing and apparently suggesting that they should not be subject to the same controls as those proposed over offensive weapons. But I think it is now clear that the Premier's remarks were not read in context and were given exaggerated weight. As a current article in the Soviet periodical, Twentieth Century and Peace, reveals, only 3 days after Kosygin's famous remark in a London press conference, Pravda offered an explicit corrective, stating:

> The Soviet Government is ready to negotiate the problem of prohibition of further armament race both in the field of offensive as well as defensive weapons.

Indeed, the authoritative chairman of the Soviet Academy of Sciences Committee on the Scientific Problems of Disarmament, Prof. V. S. Emelianov has repeatedly underscored this receptivity to controls over both offensive and defensive weapons. Emelianov has stated that—

> The salvation from the dangers which face the peoples of our planet in connection with the creation of modern weapons, should be sought not in the creation of illusory means of defense, but rather in the annihilation of the very source of the dangers—the nuclear weapons.

There is good reason to believe that the Soviet Government is divided on some of these issues, as the U.S. Government has always been. But it would be incorrect to approach the SALT negotiations on the assumption that the old myths of Soviet disinterest in limits on

both offensive and defensive weapons will apply. The situation is different from past arms negotiations and the prospects are more hopeful, if we but realize the opportunity for mutual restraint. The fluidity of Soviet attitudes, though marked by caution as are our own, is a fact we should recognize. Helsinki has been followed, for example, by a number of quiet Soviet feelers which appear to be inviting a proposal such as that contemplated in Senate Resolution 211.

It is to help President Nixon seize this great opportunity for turning the arms competition into more secure channels that the supporters of this resolution believe the Senate's opinion should be expressed in this manner. If the Soviets do not prove receptive to the recommended suspension of deployments of both offensive and defensive weapons, there will be ample opportunity thereafter to explore more limited arrangements.

Once again I commend the distinguished Senator from New Jersey for his enlightened and constant efforts to advance this great cause.

ORDER OF BUSINESS

Mr. GOLDWATER. Mr. President, I ask unanimous consent that I may proceed for not to exceed 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Arizona is recognized for not to exceed 10 minutes.

NEW EVIDENCE SUPPORTS JUDGE CARSWELL

Mr. GOLDWATER. Mr. President, the debate on Judge Carswell has greatly interested me because of figures which have been used which just have not sounded reasonable to me—a nonlawyer. Questions asked of judges in other courts, who are friends of mine, have verified my misgivings and research by my staff has backed this up.

I am able to release today the results of a study which proves beyond any doubt that Judge Carswell is eminently well suited for a position on the Supreme Court bench.

This study is the first complete analysis that has been made of Judge Carswell's decisions while he was sitting as an appellate judge. It clearly reveals two previously overlooked facts which are highly pertinent to Judge Carswell's qualifications.

First, the study discloses that the nominee holds the special distinction of having been assigned, while he was a district judge, to sit with the Fifth Circuit Court of Appeals in no less than 54 different cases.

What is more, his record in these cases gives him an average of 93 percent as an appellate judge. In other words, his decisions and opinions as a visiting judge on the circuit court have prevailed 93 percent of the time.

When his record of 54 cases as a visiting appellate judge is added to the minimum of 100 decisions which he has joined in since coming to the higher court, it becomes clear that his judicial record on the Court of Appeals is over 50 percent more extensive than the number of his published decisions from the district court. This means that his critics have built their attack against Judge Carswell based on much less than half of his total record.

Mr. President, this new data provides convincing evidence of the high esteem with which Judge Carswell is held in the Fifth Circuit. It is an unusual tribute for any district judge to be chosen so many times to sit with circuit judges in the decision of appellate cases.

Of particular interest is the fact that none other than Chief Judge Tuttle, who headed the Fifth Circuit, picked out Judge Carswell time after time to be a member of the same review panel of which he, Judge Tuttle, was a member.

Judge Carswell sat together with Judge Tuttle on at least 25 different occasions. This certainly gives a true picture of the high regard and great confidence which Chief Judge Tuttle had for the credentials and skills of Judge Carswell. It clearly gives renewed meaning to the letter of endorsement which Judge Tuttle had written on behalf of Judge Carswell.

Mr. President, throughout this debate, I have noticed an unusual preoccupation by Judge Carswell's opponents with various sets of statistics compiled by law students. I hope they will give equal consideration to the striking new data that I have released today.

This evidence, going as it does to Judge Carswell's performance as an appellate judge, is much more pertinent than the incomplete and misleading statistics which the critics have been using.

His detractors have ignored the total of 4,500 cases which Judge Carswell has handled as a district judge and have focused only on those cases which were appealed. There is no question that this is a greatly distorted method of examining the nominee's credentials. It gives no weight at all to the vast majority of cases which Judge Carswell handled so well that there was no ground for appeal.

Also, it completely ignores the setting of each decision. It hides such important considerations as whether or not new law was handed down by the higher courts after the lower court decision.

For example, many of Judge Carswell's critics have pointed to two school desegregation cases of his which were reversed by the fifth circuit court of appeals. These are supposed to demontrate that Judge Carswell is hostile to civil rights.

What his detractors neglected to tell us, however, was that 11 other district judges in the fifth circuit were reversed by the same higher court ruling. And someone forgot to mention that Judge Carswell himself voted to reverse 11 of these cases—419 F.2d 1211. He was in complete agreement with his fellow judges that an intervening Supreme Court case required swifter school desegregation in the fifth circuit.

In fact, Mr. President, the statistics used by the opponents are not even accurate. They have accepted data prepared by law students without making an examination on their own. My office has discovered five cases of Judge Carswell's that were affirmed by the circuit court, but overlooked by his critics—293 F.2d 261, 337 F.2d 753, 341 F.2d 351—two cases, 21107 and 21111—399 F.2d 93, and 420 F.2d 60.

Who knows how many more they may have omitted before arriving at their misleading statistic?

Mr. President, the school integration decision I have cited is not the only one which demonstrated the nominee's concern with human rights.

The study which I have initiated has uncovered 11 additional decisions that are without any question procivil rights—353 F.2d 585; 415 F.2d 325 and 1377; 417 F.2d 838, 845, and 848; 418 F.2d 549 and 560; and 420 F.2d 379, 527, and 690.

Mr. President, the opponents could have discovered this for themselves. It should not be necessary for a Senator who is not a lawyer to have to seek out these hidden facts. In the face of this balanced record, the minority report on the nomination of Judge Carswell makes the unqualified charge that the nominee's supporters can find no activities to show "his commitment to equal rights."

Now each of my colleagues who signed this report is a lawyer. With all due respect, I must suggest to my colleagues that if I, who am not a lawyer, can turn up 10 or 11 decisions solidly backing minority rights then surely they can do even better.

This same failure to do their homework has marked the testimony and speeches of nearly every one of Judge Carswell's critics. As another example, I might refer to Dean Pollak, who is normally well prepared.

And yet he appeared before the Senate Judiciary Committee to express his concern about Judge Carswell when he had merely read some of his district court opinions covering a period of 5 years. This is 5 years out of an 11-year span on the lower court.

To top it all off, Dean Pollak admitted that he had only spent the Saturday evening and Sunday morning previous to his testimony running through these cases. He did not study any of Judge Carswell's Circuit Court cases at all.

Now, I really must ask—is this fair? Can Senators truly reach a reasoned decision on the basis of opinions volunteered by individuals who have failed to review the whole record? Or have we been fed a bunch of snap reactions founded solely on emotional judgments?

Mr. President, the study I have undertaken reveals 54 decisions in which Judge Carswell joined while he sat as a visiting judge on the Fifth Circuit bench and at least another 100 in which he participated after he became a circuit judge.

In fact, I have come across seven opinions which Judge Carswell himself wrote during the years he sat as a visiting Judge on the higher court and another 16 which he has written since becoming an appellate Judge.

In all, his decisions from the appellate bench total over 150. This is half again as large as his printed decisions as a district judge. In other words, his opponents have ignored more than half of Judge Carswell's judicial record in reaching their position.

To my mind, anyone who is actually seeking the truth of the matter will examine each of these cases before jumping to the conclusion that Judge Carswell is not fit for the Supreme Court.

In my opinion, his complete career leaves no doubt that Judge Carswell is a highly capable individual and a skilled jurist.

His record is a balanced one. His decisions prove that he has often voted on the side of human rights.

His testimony before the Senate committee rings out with expressions of deep concern and knowledge about human problems.

There is no sound reason for opposing his nomination.

Judge Carswell is extremely well qualified to serve as a member of the Supreme Court. I shall support his nomination 100 percent.

Mr. President, at this point, I ask unanimous consent to insert in the RECORD a table of citations which will verify the findings I have released.

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

STUDY OF U.S. DISTRICT JUDGE CARSWELL'S RECORD OF DECISIONS AS AN APPELLATE JUDGE

An analysis of every Fifth Circuit appellate decision published in the Federal Reporter, Second Series, beginning with 1959 cases and continuing into 1969 cases, reveals that District Judge Harrold Carswell has been assigned to sit on the higher court bench as a visiting judge on at least fifty-four occasions.

Chief Judge Tuttle participated as a member of the same appellate court as Judge Carswell in twenty-five of these cases.

Only three of the fifty-four decisions were reversed by the Supreme Court. One was vacated.

In all, the decisions in which Judge Carswell joined have prevailed as sound law in 92.6 percent of the cases.

This data clearly establishes the credentials of Judge Carswell to sit as an highly competent member of any higher court. It definitely proves his capacity and experience to serve as an Associate Justice of the United States Supreme Court.

The list of decisions in which Judge Carswell participated on the appellate bench, while he was a District Judge, is as follows:

Federal Reporter—2d series

Volume:	Page
286	46
286	72
286	742
287	252
287	623
301	630
304	160
304	[1] 876
304	881
305	158
305	934
307	790
307	802
307	894
308	724
309	1
309	[2] [3] 297
310	11
310	53
310	66
310	77
310	82
310	328
311	291
311	[4] 429
311	[3] 437
311	[3] 438
312	134
312	207
313	187
313	303
314	852
317	295
340	707
340	[1] 708
340	[2] 708
351	278
351	304
351	384
351	455
351	456
351	468
351	470
351	[1] 489
351	609
351	611
351	671
351	[1] 952
352	69
352	76
353	485
353	585
355	[2] 543
364	[1] 829

[1] First case.
[2] Second case.
[3] Subsequently reversed.
[4] Subsequently vacated.

An analysis of Fifth Circuit appellate decisions published in the Federal Reporter, second series, from volumes 415 through 420, discloses, at least, 101 decisions which Judge Carswell has joined in since he became a judge on the court of appeals. The decisions include 16 cases in which Judge Carswell wrote the court's opinions. These cases are as follows:

Federal Reporter, 2d series

Volume:	Page
415	325
415	743
415	766
415	773
415	[1] 1007
415	1012
415	1017
415	1115
415	1129
415	[2] 1377
416	10
416	917
416	379
416	407
416	412
416	441
416	451
416	914
416	917
416	949
416	968
416	[2] 972
416	1042
416	1077
416	1235
416	1246
416	[3] 1257
416	1332
416	[3] 1333
417	94
417	135
417	198
417	218
417	296
417	303
417	329
417	518
417	628
417	629
417	[2] 633
417	838
417	845
417	848
417	1041
417	1134
418	134
418	[1] 238
418	306
418	405
418	417
418	441
418	206
418	[1] 238
418	275
418	439
418	482
418	1093
418	560
418	549
418	847
418	849
418	873
418	1093
418	[1] 1250
418	1305
419	10
419	30
419	91
419	122
419	152
419	223
419	381
419	128
419	149
419	1309
419	384
419	572
419	(11 cases) 1211
419	1306
419	1310
419	1312
419	1325
420	322
420	371
420	[3] 379
420	454
420	485
420	508
420	527
420	552
420	[2] 690
420	696

[1] First case.
[2] Second case.
[3] Third case.
[4] Subsequently vacated.

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

Mr. GOLDWATER. I am happy to yield.

Mr. MILLER. Mr. President, I commend the Senator from Arizona for adding some light to the record with respect to the pending nomination. I should also like to add a further note to what he said about some of these reversals.

It has been my observation that most of the opponents of the nomination have got into the numbers game on reversals without doing their homework—this is especially true of many law professors and lawyers—with respect to what went into the reversals.

For example, a good many of the reversals of Judge Carswell's decisions occurred because there had been a change in the ground rules. A district judge is supposed to follow the rules of his circuit. Judge Carswell did, and then, after he had decided the case, and pending its appeal before the fifth circuit, the fifth circuit changed the ground rules, either on their own initiative or as a result of Supreme Court decisions.

I find it very difficult to understand why there is such a lack of scholarship on the part of some of the opponents in pointing this out; because if the ground

rules are changed, no one can blame Judge Carswell for that. In the printed hearings record, beginning on page 311, is an analysis of a good many of these reversals which points out what I have been stating.

I should also like to make a comment, with respect to Dean Pollak of the Yale Law School, that the dean undertook to come before the Committee on the Judiciary and express concern over the lack of scholarship of the nominee, when the dean himself displayed a terrible lack of scholarship in undertaking to say, with respect to Judge Carswell:

> With respect to Judge Carswell from what little I knew of him at hearsay and from the press, there was no such background of demonstrated achievement whatsoever.

It would seem to me that the dean himself was lacking in the very scholarship that he sought to criticize the nominee for not having.

Then further, the dean referred approvingly to some of his colleagues whom he knows well and for whom he has the highest regard, with respect to their detrimental testimony which he had read about in the press.

I find it very difficult to understand why Dean Pollak would overlook completely the testimony before the Committee on the Judiciary, based upon knowing the nominee well, by a 34-year professor at Yale Law School, the Sterling professor of law—the highest honor that any member of the faculty at Yale can attain—Professor Moore, a recognized authority on Federal practice, who gave very favorable testimony in support of Judge Carswell.

I think that the Senator from Arizona did a service to the Senate by pointing out some of these deficiencies, and I must say, as a lawyer, that I am very disappointed that some members of my profession have seen fit to indulge in what is known as "trial by press", instead of undertaking the scholarship and the research for which our profession is supposed to be noted.

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

Mr. GOLDWATER. Mr. President, I ask for 1 additional minute to respond to the Senator from Iowa.

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

Mr. GOLDWATER. Mr. President, as I pointed out, I am not a lawyer, but as I have listened to the debate, and have kept reading the testimony and the debate in the record, I have found it hard to believe that a judge could handle so few cases, when friends of mine on the appellate courts and other courts of this country are swamped. Backlogs of cases in the courts of my own State sometimes run from 1,800 to 2,000.

So I made inquiry, and found out that the total number of cases we are talking about is 4,500. But we have not heard that figure mentioned here.

I think the opponents of Judge Carswell have demonstrated very poor research capability, because it took my staff only one night of research in the Library of Congress to find out the materials I have put into the RECORD today.

I hope my fellow Senators will read it, so that they can begin to understand that the combined weight of dishonesty of the New York Times and the Washington Post has had a more pervasive effect here than has good judgment.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Leonard, one of his secretaries.

REPORT OF CIVIL SERVICE COMMISSION—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-238)

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

I have the honor to transmit herewith the Civil Service Commission annual report for Fiscal Year 1969. This report, which is made pursuant to 5 U.S.C. 1308, discusses the achievements of the Commission which have been designed to improve and upgrade Federal personnel management. I believe that these efforts have made a significant contribution toward enhancing the effectiveness and efficiency of the Federal Government.

RICHARD NIXON.

THE WHITE HOUSE, *April 7, 1970.*

ORDER OF BUSINESS

The PRESIDING OFFICER. Is there further morning business?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that I may speak for an additional 10 minutes.

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

THE REAL ISSUE OF THE CARSWELL NOMINATION

Mr. BYRD of West Virginia. Mr. President, much has been made in the recent debates over Judge Carswell's confirmation about the disposition of his decisions when they were appealed to the court of appeals for the fifth circuit. Emphasis has been focused on his reversals in the area of civil rights.

Let us examine the true facts of these issues. In my judgment, the facts show that Judge Carswell has a commendable record in these cases.

In the first place, the statistics which the opponents of this nomination rely upon are very misleading. On March 10, the Ripon Society and a group of Columbia University law students stated that Judge Carswell's reversal rate was 58.8 percent while the average reversal rate of district judges within the fifth circuit was 24 percent. Thus it was made to appear that Judge Carswell's reversal was 34 percentage points worse than average, and 2½ times as great as the average rate. Some of the supporters of the nomination criticized the study as being based on an entirely insufficient sampling of decisions.

On March 25 the Ripon Society came up with an entirely new set of figures which document in detail the previous criticism made of these statistics. Judge Carswell's reversal rate is now conceded to be not 58 percent but 40 percent, while the average reversal rate for district judges in the fifth circuit is now conceded to be not 24 percent, but 30 percent. Thus Judge Carswell's reversal rate is no longer 34 percentage points above average but only 10, and his rate of reversals is only 1⅓ times as great as the average rate.

The Ripon Society and other opponents of the nomination are noticeably silent as to just what use should be made of these reversal statistics, or what they concede would be a satisfactory rate of reversal to entitle one to ascend the Supreme bench. It is interesting to note that Judge Frank M. Johnson, of the district court in Alabama, who the National Leadership Conference on Civil Rights has described as one who would be "a heroic addition to the Supreme Court" has a reversal rate which, like Judge Carswell's, falls above the median. His reversal rate was 32.6 percent, while Judge Carswell's was 40.2 percent, according to the Ripon Society's statistics. Yet according to Joseph Rauh, the former is "a wonderful Southern judge who would be an heroic addition to the Supreme Court," while Judge Carswell is mediocre.

The question underlying all of these statistics, of course, is just what these reversal rates are useful for in evaluating a judge's performance. Certainly if a trial judge is simply unable to apply appellate court precedents in deciding cases which come before him, his judicial competence may fairly be questioned. But in order to make this determination, one would have to know the nature of each case coming before him, and the basis for reversal upon appeal.

For example, in the trial of Federal criminal cases, with respect to which the substantive law is seldom in dispute, the evidentiary rules are well settled, and the trials may fairly be described as routine from a legal point of view, it can be fairly said that the trial court rulings are generally governed by appellate precedent. In this area, however, it has been conceded by the Washington Post that Judge Carswell's reversal rate is less than the average for the other judges of the fifth circuit. As a matter of fact, of the 44 appeals taken from criminal trials conducted by him, the fifth circuit affirmed 36 cases and reversed eight cases. This is an affirmance record of 82 percent, which is good by any standard.

Many civil cases, on the other hand, involve novel points of law which are not squarely controlled by an appellate precedent. In our judicial system, the appellate court has the final say on such matters, but it cannot be said as a matter of abstract reasoning that a district court is invariably wrong when reversed by the court of appeals if the court of appeals is itself making new law in reversing the

district court. For example, a liberally inclined court of appeals may be inclined to frequently reverse a conservative trial judge, not because the latter refuses to apply the precedents decided by the former, but because on a novel point of law the approach of one court will differ from that of the other.

As to Judge Carswell's record of reversals in civil rights cases, one of the leading opponents of this nomination, Mr. Joseph L. Rauh, stated to the Judiciary Committee that Judge Carswell had been reversed by the fifth circuit court of appeals in eight such cases. He neglected to tell the committee that four of Judge Carswell's civil rights decisions were affirmed on appeal. These four affirmances are:

Knowles v. *Board of Public Instruction of Leon County*, affirmed, 405 F. 2d 1206 (1969);

Presley v. *City of Monticello*, affirmed, 395 F. 2d 675 (1968);

Ball v. *Yarborough*, affirmed 281 F. 2d 789 (1960);

Steele v. *Taft*, affirmed in effect by *Palmer* v. *Thompson* No. 23841 (October 1969).

In determining the true facts as to the reversals in civil rights cases, we should bear in mind that this area of the law has undergone rapid and drastic change in the last 15 years. The fifth circuit court of appeals has been in the vanguard of this change. It has been acknowledged by most observers that the court has been very "liberal" on civil rights matters, and on many occasions has gone much further than even the Supreme Court in the field of civil rights.

Judge Carswell's record shows that he is a strict constructionist, so it is not at all surprising to find that he has been reversed at times by an extremely activist circuit court of appeals.

As a matter of fact, we could not consider Judge Carswell to be a strict constructionist if he had not at times been reversed by the activist circuit court of appeals.

In at least one instance the circuit court of appeals got so far ahead of the Supreme Court that the Supreme Court was compelled to reverse the circuit court of appeals. This was true in the case of *Wechsler* v. *County of Gadsden*, 351 F. 2d 311, which case has formed the basis of much of the criticism against Judge Carswell. The Wechsler case involved an interpretation of the criminal removal statute.

One of the opponents of this nomination has stated on the floor that Judge Carswell's decision in Wechsler to remand the criminal case back to the Florida court from which it was removed was contrary to the then-existing case law. This is incorrect. Judge Carswell's decision was based on existing Supreme Court decisions which gave the removal statute a very restrictive interpretation. After his decision in Wechsler, but before its appeal was heard by the fifth circuit, the Fifth Circuit Court of Appeals decided the cases of *Rachel* v. *Georgia*, 342 F. 2d 336 and *Peacock* v. *Greenwood*, 47 F. 2d 679. These fifth circuit decisions represented a sharp departure from a long line of Supreme Court decisions culminating with *Kentucky* v. *Powers*, 201 U.S. 1.

It was the fifth circuit, not Judge Carswell, who departed from the law.

When the cases were appealed to the Supreme Court, the High Court reversed the circuit court of appeals and reaffirmed its prior holdings. Thus, Judge Carswell's position in Wechsler was completely vindicated.

Similarly, we find that three other reversals of Judge Carswell's decisions cited by Mr. Rauh and other opponents of the nomination were clearly the result of supervening changes in the law.

In *Steele* v. *Board of Public Instruction of Leon County*, 371 F.2d 395 (1967), the fifth circuit held that the desegregation plan adopted by Judge Carswell in 1963 failed in a number of respects to meet the standards laid down by the fifth circuit in December 1966 in the case of *United States* v. *Jefferson County Board of Education*, 372 F.2d 836. The Jefferson Opinion of the circuit court of appeals represented a significant expansion in the area of school desegregation law. Surely, it would not be fair to have expected Judge Carswell to anticipate such a far-reaching change in the law. I referred to the impact of the Jefferson decision in my speech on February 9, 1970, which dealt with the history of litigation pertaining to school desegregation.

Two of the other cases in the area of civil rights in which Judge Carswell was reversed by the fifth circuit are *Youngblood* v. *Board of Public Instruction of Bay County*, No. 27863; *Wright* v. *Board of Public Instruction of Alacuha* County, No. 27983 (Dec. 1, 1969). Mr. Rauh attached a great deal of significance to these two reversals. He failed to tell the committee that the entire fifth circuit, including Judge Carswell, sat en banc to consider 13 different school cases, including the Youngblood and Wright cases. All of these cases were reversed and remanded for reconsideration in light of the intervening decision of the Supreme Court in *Alexander* v. *Holmes County Board of Education*, 396 U.S. 19.

Judge Carswell did not participate on the court of appeals in the two cases which he had decided as a district judge, but he joined with the rest of the fifth circuit in reversing the other 11 decisions. It may be technically correct to say that these two decisions of Judge Carswell were reversed on appeal, but that fact standing alone is misleading because it intimates that Judge Carswell was out of step with the fifth circuit.

I am convinced that a survey of Judge Carswell's overall record in the field of civil rights shows that he is a strict constructionist and a fair-minded judge.

In connection with the usefulness of reversal statistics, it is worth bearing in mind a statement by Justice Jackson in a concurring opinion in the case of *Brown* v. *Allen*, 344 U.S. 443 (1953):

> Whenever decisions of one court are reviewed by another, a percentage of them are reversed. That reflects a difference in outlook normally found between personnel comprising different courts. However, reversal by a higher court is not proof that justice is thereby better done. There is no doubt that if there were a super-Supreme Court, a substantial proportion of our reversals of State courts would also be reversed. *We are not final because we are infallible, but we are infallible only because we are final.* 344 U.S. at 540 (emphasis supplied).

I strongly believe that the number and rate of the reversals of Judge Carswell's decisions afford absolutely no basis for voting against the confirmation of his nomination. If his decisions were in conformity with those of a very liberal court of appeals, he would not meet the criterion of strict constructionist, and any attempt by the President to restore a balance to the Supreme Court by appointing him to that court would then be a futile gesture.

In other words, Mr. President, if Mr. Nixon hopes to restructure the Supreme Court and reverse its activist course, he will, of necessity, be forced to nominate persons to that Court whose judicial philosophy is more conservative than that which has been reflected in so many of the decisions handed down by the Warren Court and which have been so detrimental to the welfare of the Nation.

Mr. President, from the outset much of the opposition to the nomination of Judge Carswell as Associate Justice of the Supreme Court has refused to meet the real issues head on. Much of the opposition has sought to conceal the basic motives and objections involved in this nomination with diversions intended to confuse and becloud the issue.

Mr. President, let us face the real issue involved head on. In the words of L. Q. C. Lamar, let us "lay aside the concealments which serve only to perpetuate misunderstanding and distrust."

What is the gut issue involved in the consideration of this nomination?

Plainly stated, we have on one hand the President of the United States who pledged to the American people that he would seek to restore a balanced view to the Court through the appointment of strict constructionists who have demonstrated their capacity for judicial self-restraint. On the other hand there are those who are zealously determined that he will not fulfill that pledge. Since they no longer dictate the President's choice they now seek to use the Senate to frustrate the will of the President and the people.

Many of those who oppose the nomination of Judge Harrold Carswell to be Associate Justice of the U.S. Supreme Court are practical men who have studied the Supreme Court reports just as I have.

They oppose him not really upon the basis of the flimsy criticism stated in the hostile press but in fact because this particular seat has a special significance and because they feel that the man selected to replace Justice Fortas is of special importance. In this they are right but they are right for the wrong reasons.

It is not because this seat was held by Justice Holmes, Cardozo, and Frankfurter that it is of special significance.

Nor is it because, as we were told during the Haynsworth nomination, that the kind of man selected to fill this seat is of special importance because Justice Fortas was forced to resign under questionable circumstances.

The importance and significance of

this seat lies in the fact that the man who last held it consistently cast a crucial and often pivotal vote in a long series of controversial, closely divided 5 to 4 and 6 to 3 decisions including but not limited to those which expanded the rights of criminal suspects, criminal defendants and convicted felons; which secured the right of members of the Communist Party to teach in our public schools and to work in our defense plants; which tied the hands of our police and prosecutors in protecting our families and children from this plague of filthy pornography; and which undermined our rights of private property and the authority of our State and local governments to deal effectively with the problems confronting them today.

The question then arises, why is the opposition reluctant to openly and frankly state these reasons? The answer is that the political realities of our times preclude them from doing so because these decisions which they are determined to maintain and expand are highly unpopular with a majority of the American people, even though popular and vigorously supported by some of the organized and highly vocal pressure groups.

In an article appearing in the September 7, 1969 magazine section of the New York Times entitled, "The Warren Court Is Not Likely to be Overruled," the author, Joseph W. Bishop, Jr., hit the issue dead center. Mr. Bishop tells us in one revealing sentence why the opponents of the Carswell nomination will not come out in the open and take a stand on the real issues that concern them. As stated by Mr. Bishop:

> Few people today would want to kill *Brown, Baker* or *Gideon,* and in any event these cases have largely done their work. The vulnerable decisions are *Miranda* and the related cases on police interrogation, which are also the most unpopular among rank-and-file voters.

Mr. Bishop is absolutely correct. The vulnerable decisions of the Warren Court which Judge Carswell's opponents are digging into to defend are "most unpopular among rank-and-file voters," and therein lies the heart of the matter.

Mr. Bishop proceeds to tell us what kind of Court Judge Carswell's opponents are desperately trying to head off. I read as follows:

> I do not think that even a Court with a law-and-order majority would overrule *Miranda.* There are, however, several ways in which it could narrowly circumscribe whatever effect the case might have if left in full vigor. It could, for instance take a very strict view of what constitutes police "custody" and a very liberal view of what constitutes "waiver" by a suspect of his right to counsel. Congress has tried to dilute the *Miranda* rule by providing in the Crime Control and Safe Streets Act of 1968 that voluntary confessions shall be admissible in Federal trials and that a confession may be found voluntary despite the failure of the police to inform the suspect of his rights to remain silent and talk to a lawyer. By the same token, the provision of that act which requires the admission of eyewitness testimony seems to be intended to kill *United States* v. *Wade,* which extended the *Miranda* rule by holding that evidence of indentification in a police lineup could be barred unless the suspect was represented by counsel. A Court so minded could retreat from *Miranda,* without actually overruling it, by holding (wrongly, in my opinion, but not altogether implausibly) that legislative approval and authorization (though unaccompanied by any legislative effort to insure that a suspect's constitutional rights are observed) confer on police practice a sufficient aura of legitimacy to make constitutional the admission of evidence so obtained. These provisions of the Crime Control Act apply only to Federal trials, but many state legislatures would not be hesitate about copying Congress.
>
> At any rate, it is safe to predict that such a Court would not be quick to invent new protections for criminals, rich or poor. The right to a free lawyer would not be extended to persons accused of misdemeanor (though conviction of some misdemeanors can have serious consequences). When confronted with the argument that the death penalty, having become unusual, has thus become cruel as well, and so forbidden by the Eighth Amendment, a majority of such a Court might be swayed by the old-fashioned, perhaps reprehensible, but undoubtedly popular notion that in some criminals hanging effects a salutary improvement and ought to be more usual than it is—an attitude summed up in the well-known observations of a Scotch judge that the defendant "would be none the worse for a hanging."
>
> Such a cautious Court would not borrow trouble. It would not for example, go so far out of its way to kick Congress in the pants as did the Warren Court in the case of Adam Clayton Powell. (The Court was probably right in holding that the Constitution did not permit Congress to exclude—as distinct from expel—an elected representative who met its explicit requirements that he be 25 years of age, a citizen of the United States for seven years, and an inhabitant of the state in which he was elected; but the practical effect of that decision, like the Court's reason for making it, remains somewhat obscure). It may likewise be surmised that such a Court would not be eager to wade deeper into the slought of obscenity; the lower courts would be left to make what they can of the existing ground rules.

Having read Mr. Bishop's analysis of the kind of Court we might expect with the addition of another moderate Justice, it is easy to see that the American people would applaud such a Court. And this is the frustrating problem which confronts Judge Carswell's opponents. It is difficult to prevent a President from following a popular course in a political forum.

Mr. President, Alan L. Otten, writing in the Wall Street Journal of March 18, 1970, put his finger on the raw nerve center of the true issue of this nomination. Some of the most pertinent comments of Mr. Otten on this nomination are:

> The liberal forces in the Senate, and their allies outside, desperately want to block the Nixon Administration's obvious intention to name as Justices, one after another, men almost sure to turn the High Court sharply away from the liberal expansionist policies laid down over the past 17 years by the Warren Court.

Mr. Otten then referred to a telegram I sent the President in which I complimented him for his efforts to restructure the Supreme Court along strict constructionist lines. Mr. Otten continues as follows:

> Yet the Haynsworth-Carswell foes rarely come right out and argue the reverse side of this broader issue. Perhaps they sense a rightward drift in the country that makes voters not too receptive to a plea for continuation of the Warren Court. Indeed, they usually proclaim that Mr. Nixon, as the winner of the 1968 election, is entitled to broad leeway in picking Justices more in tune with his own philosophy. They do, however, take out a magnifying glass to examine the record for blemishes that might help them block his nominees.
>
> Several circumstances give the liberals' court fight right now an almost desperate quality. They have lost the White House, perhaps for considerably longer than just four years. The House of Representatives has been trending conservative for several years, and if GOP gains don't come this fall, they are extremely likely in 1972, when most States will have new Congressional districts in line with 1970 census results. And with a critically high number of Northern Democratic Senators up this November, the Senate, a liberal bastion since 1958, could also swing to the right.
>
> So the liberals know exactly why they are fighting so hard. The reason just doesn't happen to be the one they usually give in public.

These perceptive news articles state the issues that go to the central struggle of this nomination. I hope that the Senate will confirm the nomination of Judge Carswell and help guide the Supreme Court on the right course for the future good of the Nation.

I realize and recognize that there are some Senators whose opposition to this nomination sincerely motivated by the arguments publicly advanced. Others are frank to admit that their opposition is based on judicial philosophy. In any event, there is ample reason to believe that the real motivating force behind the unremitting propaganda campaign that has been waged against this nominee is the desperate fear that confirmation of Judge Carswell will signal a new direction of the Supreme Court toward moderation and judicial self-restraint.

On this great issue, I support the nomination.

Mr. President, Richard Wilson, writing in the Washington Star of April 3, 1970, states the real issue involved in this nomination.

Mr. Wilson's column was titled "Carswell Competence Not the Issue." I quote the following extracts from that column:

> As the case against Judge Haynsworth was thin, so is it also against Judge Carswell. The issue has become President Nixon's judgment in his continuing effort to create a new majority on the Supreme Court which will concern itself more with strict constitutional interpretation than with creating new law and curing social ills.
>
> This is somewhat obscured by the way senators are lining up along partisan lines on Judge Carswell's nomination as a Supreme Court justice. But fundamentally the question is there and it is a valid test of national policy, and the President's prerogatives and prestige.
>
> If confirmed Judge Carswell will go on the Supreme bench to take part in crucial civil rights decisions, the nature of which has been defined in advance by Chief Justice Warren Burger. Judge Carswell is no less qualified to consider these questions than perhaps a dozen justices who have been appointed to the court in the past 37 years within one man's observation.
>
> The President's purpose happened at the moment to have its chief focus on civil rights and especially school desegregation. Does the Constitution require any particular mix of the races in the schools by busing or the delineation of school districts? This question is vital and goes to the heart of

Nixon's racial doctrine on individual freedom to choose and ability to choose racial associations.

But the general question is much broader than that and ranges into the sanctity of law generally, protests, and riots, the rights of the accused, law and order, and a narrower and stricter construction of constitutional rights.

With Carswell confirmed or not, there is no indication that President Nixon will be diverted from his determination to remake the Supreme Court on lines of stricter constructionism and he will have ample opportunity to do so. * * * Nixon may have two or three more vacancies to fill before the end of his first term in addition to the vacancy to which Carswell was nominated.

Mr. President, Mr. Nixon has indicated his belief in strict interpretation of the Supreme Court's functions and that a court is needed which looks upon its chief function as being that of interpretation rather than that of blazing pioneer paths into new areas that are really the prerogative of Congress. Mr. Nixon has stated that, this being his strict interpretation of the Supreme Court role, he would appoint men to that court of similar philosophical persuasion. Hence, as Mr. Wilson's column points out:

If, in his future appointments, Nixon finds men who are of his philosophical persuasion he can expect that the opposition will slowly mount until some weakness, or imagined weakness, in his nominee is exposed. * * *

The struggle over Nixon's attempt to create a new Supreme Court majority is therefore likely to continue post-Carswell. The President's salvation may be that the country will sicken of continuing obstruction of his nominees as an invasion of his responsibility to appoint Supreme Court justices.

Mr. President, the majority of the American people will not be fooled by flimsy allegations concerning mediocrity. They know what the real gut issue is: A moving away from the activism of the Warren court and a return to judicial reasoning based on strict construction of the Constitution and the laws.

THE RULE OF GERMANENESS—UNANIMOUS-CONSENT REQUEST

Mr. BYRD of West Virginia. Mr. President, at the request of the majority leader, I ask unanimous consent that, for the remainder of the second session of the 91st Congress, the Pastore rule of germaneness of debate shall not begin to run until the conclusion of routine morning business, unless a bill or resolution is considered before the conclusion of routine morning business and is discussed for more than 15 minutes or until the unfinished business is laid before the Senate, whichever comes later.

Mr. MILLER. Mr. President, reserving the right to object, I would appreciate it if the Senator from West Virginia would withdraw this unanimous-consent request. I understand that there is a desire on the part of the minority leader to discuss this matter with other Members on this side of the aisle. I might say that I personally have no objection to it, but I do think that we can work this thing out, so that if the Senator would be good enough to withhold it until some time later this afternoon, I would certainly appreciate it.

Mr. BYRD of West Virginia. I think the Senator makes a reasonable request, and I withdraw the unanimous-consent request at this time.

The PRESIDING OFFICER. The request is withdrawn.

Is there further morning business?

AMERICAN PRISONERS OF WAR IN NORTH VIETNAM

Mr. BYRD of Virginia. Mr. President, this morning, my heart was torn by a visit to my office of the wives of two prisoners of war in North Vietnam. The husband of one was shot down and captured over North Vietnam in July of 1965. That was almost 5 years ago. The wife has seven children.

I was very much impressed with the courage of both of these wives. I was impressed with the fact that these and other prisoner of war wives know not where to turn to try to be helpful to their husbands.

Nevertheless, they are determined that they will do everything they possibly can to help them.

Many of these wives do not even know whether their husbands are alive or dead, so inhumane has been the Hanoi government.

One of the two courageous women who came to see me today has been more fortunate than others, in that she has heard at infrequent intervals from her husband, usually only a few lines at a time.

In thinking about this prisoner of war problem, and talking with their wives who have come to see me, it seems apparent that the only way help can be obtained for our captured men is continuously to focus attention on the problem.

I learned this morning from the two wives who came to see me that they and others with whom they have been associated feel that progress has been made in the past six months, because at least the Hanoi government has begun to release some of the names of the prisoners of war, and they have been able to receive a little more mail than before.

This is certainly a very tragic problem which faces our Nation today.

As to just what the State Department is doing in this regard, I am not certain. I feel that it is important the State Department put all pressure possible on friendly governments so that they, in turn, will bring pressure upon Hanoi.

This country has a deep obligation to these men, many of whom were drafted and sent all the way across the world, and then in fighting for their country, they were captured.

Whether the State Department is taking all the steps available to it, I am not sure. I feel some concern as to whether they are doing so, because I have seen how they handled the problem of trying to keep friendly ships out of Haiphong.

During 1969, 99 ships flying the flag of free world nations have been carrying cargo to the nation with which the United States is at war. These are free world ships.

One of these countries, Somali, has actually been receiving $35 million in aid from the United States at a time when 20 of its ships were carrying cargo to the enemy.

Let me point out this morning, as I did last Friday, that this is in direct contradiction to the mandate of Congress, and in direct contradiction to the amendment adopted to the foreign aid bill proposed by the Senator from Colorado (Mr. DOMINICK), and myself, going back 4 years.

I appeal to the State Department to take another look at this tragic prisoner of war problem, to consider the terrible plight of our prisoners of war, and to do whatever is necessary—and with vigor—to put pressure on those nations who are receiving or have received aid from us, to join in solving the problem.

I think it is time that these friendly countries come to our aid. A worldwide and concerted effort should be made to get the Hanoi government to come to its senses in regard to the American prisoners of war they are holding.

And where is the United Nations? Why has it not interceded in behalf of the prisoners?

Mr. President, my heart goes out to the 1,400 wives of prisoners of war who, along with their children and their families, are going through this terrible ordeal because the Hanoi government refuses to pay any attention to the normal rules of warfare affecting prisoners of war.

I concur in the views expressed by the wives, that if there is to be any alleviation of this tragic problem, we in Congress and in the Government must continue to focus attention on the problem and the plight of our prisoners of war.

Mr. President, I ask unanimous consent to have printed in the RECORD an article printed in the Virginian Pilot, of Friday, March 6, 1970, as written by Lawrence Maddry on this subject.

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

AMERICAN PRISONERS OF WAR IN NORTH VIETNAM

(By Lawrence Maddry)

The message is only two paragraphs long, but it could relieve a lot of suffering. The 26 families of Tidewater servicemen who are prisoners of war or missing in action in Vietnam want you to send it. It's aimed at the government of North Vietnam.

It goes like this:

Mr. ROSS PEROT,
WAVY-TV,
Portsmouth, Va.

DEAR MR. PEROT: I want to express concern for the American servicemen who are prisoners of war and missing in action in Southeast Asia. The people of this nation are shocked by the treatment they are receiving and support the actions you are taking in their behalf.

The government of North Vietnam must be made to realize that on the prisoner issue we Americans stand united. These men have suffered terribly, and their release is long overdue. I will do all I can to help you in your efforts to help them.

If you believe in the sentiment expressed in that letter, you sign it with your name.

If you don't, maybe we can help.

On Sept. 17, 1969, Navy Lt. Robert Frishman of Long Beach, Calif., one of the few U.S. servicemen released from captivity by the Vietcong, held a press conference at Bethesda Naval Hospital.

He was asked if American POWs are re-

ceiving humane treatment. His answer was very angry.

"Are rebreaking broken bones in solitary confinement humane? Is sitting on a hot stool in a hot stuffy room with no sleep and mosquitoes biting you until they make their lousy statements humane? I know what it's like."

He told it as it was. Forced statements . . . prisoners living in a cage for years . . . being put in straps . . . removal of finger nails . . . being strung from a ceiling.

Forget the hawks and doves. What is being sought for the 1,400 Americans in the hands of the North Vietnamese is freedom, of course, but first something more basic the decency which separates men from animals.

The 26 families here would like to hear the air ring with "Peace for the Fourteen-Hundred" the way it did in Washington when a half a million people crowded into the mall with shouts of "Peace Now."

If you think the war is a national disgrace, write the letter anyway.

The Vietcong are not living up to the terms of the Geneva Convention of 1949 which North Vietnam signed in 1957. If they were they would:

Identify prisoners they hold.

Release the sick and injured.

Permit impartial inspections of prisoners of war facilities.

Permit the free exchange of mail.

We talked about that letter printed above with a couple of wives who think the letter is their last hope for getting their husbands home.

One is Mrs. Eugene McDaniel, of Woodhouse Road, Virginia Beach, the wife of Cmdr. Eugene B. McDaniel, a pilot. She knows only that her husband was shot down over Vietnam in May 1967. He radioed that he was in enemy territory. He hasn't been heard from since. Mrs. McDaniel would like to know whether her husband is dead or alive.

The McDaniels have three children, ages 12, 10, and 7, Leslie, 7, barely remembers her father. So mom keeps showing her dad's picture.

"We feel that if people will write letters it could influence their release," Mrs. McDaniel said. "Even Hanoi has to listen to public opinion."

Another is Mrs. Thomas E. Scheurich of Seven Points, Virginia Beach. Her husband, Cmdr. Scheurich, has been missing in action for two years.

The Scheurichs have four children. "The North Vietnamese haven't given us any information whatever," she said.

Mrs. Jeremiah Denton of Watergate Lane, Virginia Beach, is one of the lucky ones. She hears from her husband six lines at a time in letters or postcards.

Her husband, Capt. Denton, has been a prisoner since July 1965. The letters she gets are in shaky handwriting, and she doesn't really know her husband's condition. The messages from him say simple but touching things like: "My loving family. I'm with you in spirit."

The Dentons have seven children.

She said her daughter has, at times, gone up to strangers in uniform and asked "Are you my daddy?"

Mrs. Denton said that American attempts to make prisoner releases an issue in the Paris peace talks have been rejected by the Vietcong and that public opinion is the only way to effect their release.

The letter-writing campaign has been spearheaded by billionaire Ross Perot, who was turned down by Hanoi when he tried to fly planeloads of Christmas packages to the prisoners. They were given to North Vietnamese prisoners in South Vietnam instead. "We hoped it would lead to better treatment of our prisoners in the North," Perot said.

Mrs. Denton thinks the campaign is making progress. "Before Christmas only 100 of the 1,400 families in this country had heard from their relatives in North Vietnam," she said. "Now 150 have heard."

A recent delegation to Hanoi informed POW wives that the North Vietnamese would now allow a package every other month to get through to the prisoners.

The packages have to be no more than 6½ pounds each. The wives send vitamins, food, chewing gum, toothpaste, gloves, even candy.

The wives study the lists carefully to get as much as possible into the small packages. "I even send honey candy because it's more nutritious," Mrs. Denton said. (She has seen a picture of her husband taken while a prisoner. He was very thin with dark circles beneath his eyes.)

"We like to think those packages are getting through, but we don't even know that," she said.

Mrs. Denton noted one of the ironies in the prisoner situation: the North Vietnamese won't allow their prisoners in South Vietnam to write their homeland.

"The North Vietnamese won't accept mail from their prisoners or accept a list of their men who are held captive. It's very discouraging," she said.

She's encouraged though, about responses to the appeals for letters.

The letters are being collected locally by WAVY-TV and will be held until this spring, when rallies urging release of the prisoners and better treatment for them will be held. Trucks will travel across the country picking up the mail.

The Junior Chamber of Commerce is helping organize the campaign. Other local TV stations—WTAR and WVEC—are also broadcasting public service appeals for letters.

"If there is great public support for our men in those prisons over there, the North Vietnamese can't ignore it. They just can't," Mrs. Denton said.

ADDITIONAL STATEMENTS OF SENATORS

FINE WORK OF SOIL CONSERVATION SERVICE

Mr. SCOTT. Mr. President, I wish to commend the fine work of the Soil Conservation Service, U.S. Department of Agriculture. Since 1937, the SCS has given technical assistance in soil and water conservation to landowners and operators in soil conservation districts. From the beginning, this assistance has included planning the use of land and water for fish and wildlife production, as well as for crops, livestock, and timber. More than a million farm ponds and lakes, and many other conservation practices that contribute to the interest and beauty of the rural landscape, already are being used by a growing number of farmers as a basis for income-producing recreation enterprises. The more than 3,000 soil conservation districts encompass 99 percent of the Nation's farms. In addition to existing soil conservation districts, the SCS gives administrative leadership for small watershed projects, resource conservation and development projects, and rural area development. The SCS provides technical information on the agricultural conservation program, the cropland adjustment program, and the Farmers Home Administration. More recently, the SCS has been active in cooperating with other Federal departments and with State and local agencies to evaluate recreational needs. The fine record of the SCS deserves the highest praise.

I have been pleased to work with the Soil Conservation Service to provide appropriations for its many vital programs. Last year and this year I made statements before the Agricultural Appropriations Subcommittee in support of the agricultural conservation program. This program, among other things, encourages soil management practices that keep down the amount of silt in our Nation's waterways. A high silt accumulation will shift the ecological balance of a waterway and seriously impair its use values.

Pennsylvania farmers and rural subdivisions have long been active in Soil Conservation Service activities. I ask unanimous consent that a summary of the SCS's 1969 activities be printed in the RECORD.

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

1969 SOIL CONSERVATION SERVICE ACTIVITIES IN THE STATE OF PENNSYLVANIA

LANDOWNERS

22,502 rural and urban landowners were given technical assistance with soil and water problems. The Service provided technical help in establishing 90 miles of diversions; 29,326 acres of strip cropping; 514 miles of tile drains; 7,841 acres of tree plantings; 1,022 water supply structures and other practices including waterways, wildlife habitats and woodland and grassland improvement.

COMMUNITIES

685 local units of government including township supervisors and planning commissions were given technical information in selecting and developing land for schools, parks, waste disposal and home sites.

The Service is working closely with a number of county planning commissions concerning soil erosion control, sediment control and water disposal in developing plans for residential, industrial and business locations.

IMPROVING THE QUALITY OF THE ENVIRONMENT

The Service's work in erosion control in the rural and urban areas is reducing water pollution and is improving our waterways for recreation, fishing and wildlife.

Through Public Law 566, the Service is helping rural and urban communities improve their water supply, create new recreation areas and develop flood prevention projects.

The Service is providing local units of government soils information useful in selecting sites for solid waste disposal and establishing land use and development regulations. The Service is also assisting the local people in revegetating critical silt producing areas such as strip mines, culm piles, roads and stream banks.

SOIL SURVEYS

The Service has soil surveyed 19 million acres of land in the state, with 1.3 million acres completed in 1969. Seventeen soil survey reports covering 18 counties and 24 interim reports, covering parts of 24 counties, have been published. The soil survey information is used as basic information in planning and developing land for parks, schools, sewage disposal systems, homes and industrial sites.

FLOOD PREVENTION AND WATER SUPPLY

The Service has received 50 applications covering 2.5 million acres of land from sponsors in 31 counties for Public Law 566 projects. To date, 23 watershed projects have been approved for construction. Of the 103 dams planned in these projects, 37 have been

built and 7 are now under construction. In several of these watersheds, inadequate construction funds under Public Law 566 are delaying the installation of the dams. In several of the approved projects, the local people are experiencing some difficulties in securing the needed land rights.

In all of the watersheds, the land treatment program is moving ahead in a satisfactory manner. Erosion control measures including terracing, strip cropping, tree planting and improved grassland are reducing stream pollution and improving the economic use of the land.

SOIL AND WATER CONSERVATION DISTRICTS

The Service is providing Pennsylvania's 65 soil and water conservation districts and their rural and urban cooperators with technical assistance on soil and water problems. This year 24,329 landowners were given technical help in solving their soil and water problems. Thousands of landowners received technical help in applying the more difficult measures to land. These conservation measures are helping to improve the family farm, reduce stream siltation, increase wildlife habitat and conserve moisture.

CONSERVATION NEEDS INVENTORY

An inventory of the soil and water conservation needs was completed and a report was published this year. The inventory includes the conservation treatment needs for all the watersheds, cropland, pasture land, woodland and other lands in the county. It points out the need for accelerating the land treatment program in order to improve the natural resource base and continues to improve the quality of the environment.

SUSQUEHANNA RIVER BASIN

The Service had the leadership for the U.S. Department of Agriculture's studies in the Susquehanna River Basin. Studies were made to determine water supply needs for agricultural and rural communities; location of sites suitable for the construction of dams for watter supply, flood prevention, recreation and low-flow stream augmentation; agricultural production potential and trends; land treatment needs and the location of irrigable acres in the Basin.

Six public meetings were held in the Basin to explain the U.S. Department of Agriculture's studies to the public. The meetings were well attended by sportsmen, conservationists, public officials, state agencies and the general public.

RESOURCE CONSERVATION AND DEVELOPMENT PROJECTS

There are two Resource Conservation and Development projects authorized for operation in Pennsylvania. They are the Penn-Soil project covering Crawford, Erie, Mercer and Venango Counties and the Endless Mountains project covering Bradford, Sullivan, Susquehanna, Tioga and Wyoming Counties.

The following activities were completed in the Penn-Soil Resource Conservation and Development Project in Crawford, Erie, Mercer and Venango Counties: 300 acres of strip mine spoil were revegetated; two township parks and one county park were under construction; 26 miles of roadbank stabilization were planned; the architect's drawings were completed for the Penn-Soil Conservation Education Center; rural fire protection systems were developed for four townships; and Erie County was included in the project.

In the Endless Mountains project the sponsors are working with the local people in developing better housing and health facilities, roads, sewage and solid waste disposals and improved water supplies and flood prevention projects. The Service is also working closely with many local units of government in selecting land for parks, schools, homes, industrial sites and stabilizing roadbanks.

PROPOSAL TO LOWER VOTING AGE TO 18

Mr. MANSFIELD. Mr. President, the New York Times of today contains an excellent letter by the senior Senator from Massachusetts (Mr. KENNEDY) with respect to the proposal to lower the voting age to 18 by statute. It is a very scholarly answer to a letter by several professors from the Yale Law School seeking caution by Congress in venturing into this area by statute. I believe that Senator KENNEDY's letter fully answers the concerns raised by these professors at the Yale Law School. The ultimate irony, I think, is brought out by Senator KENNEDY in that letter where he speaks of the history of the Yale Law School as being the leading advocate and bastion of judicial activism in the Nation for the past generation. What the proposal to lower the voting age to 18 does is not to advocate congressional activism but for Congress to assume its full responsibility in implementing the Constitution and the necessary and proper clause of the 14th amendment.

I would hope that the professors of the Yale Law School would appreciate the constitutional responsibility of Congress as well as of the courts.

I ask unanimous consent that the letter as it appeared in the New York Times be printed in the RECORD.

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

KENNEDY BACKS STATUTE FOR LOWER VOTING AGE

To the EDITOR: A recent letter from six professors of the Yale Law School supports the Justice Department's constitutional objections to a statute lowering the voting age to 18. However, both the Department and the professors ignore the fact that the same bill also imposes a nationwide ban on state literacy tests, and reduces state residence requirements for voting. Surely if Congress has the power to act by statute to change voting qualifications in the areas of literacy and residence, then it also has the power to act by statute to change the voting age.

The professors propose to restrict the Supreme Court's holding in Katzenbach v. Morgan to cases involving discrimination against ethnic minorities. However, as the Court clearly stated in the Morgan case, Congress has broad power under Section 5 to weigh the facts and make its own determination of discrimination under the equal protection clause, whether the discrimination is based on race or any other ground.

So long as the Supreme Court can find a reasonable basis for Congress's determination, the Court will sustain it.

SENATE VOTE

Three weeks ago, by a vote of 64 to 17, the Senate made a clear finding that such discrimination does exist. The Senate held that laws setting the voting age at 21 unfairly discriminate against millions of 18, 19 and 20-year-old Americans who fight and die in Vietnam, who work, marry and pay taxes, and who are treated as adults by the criminal law, but who are denied the most basic right of all in our democratic society—the right to vote.

The Yale professors also assert that the long-ignored Section 2 of the Fourteenth Amendment is conclusive on the constitutional question. But Section 2 says only that if a state denies the vote to male citizens over 21, the state's representation in Congress must be reduced.

Section 2 says nothing of the broad power of Congress under Section 5 of the Amendment, or the broad power of the states under other provisions of the Constitution. In fact, the professors' argument on Section 2 proves too much. If Congress has no power to reduce the voting age, then it also follows that the states have no such power as well. Yet no one doubts the constitutionality of the actions by Georgia, Kentucky, Alaska and Hawaii in recent years to reduce the voting age below 21.

The power of Congress under the Morgan case to enforce the equal protection clause and to lower the voting age by statute is unequivocally supported by Paul Freund, the most renowned constitutional authority in the nation; by Archibald Cox, the former Solicitor General of the United States, and by many other constitutional experts.

I believe that Congress has not only the capacity to exercise this power wisely, but also the responsibility to do so.

By accepting this responsibility in the voting rights bill and other measures, Congress is making a basic contribution to representative government in our democracy.

In closing, it is worth noting the obvious irony in the Yale professors' position. For a generation, Yale Law School has been the leading bastion of judicial activism in the nation. Now it emerges as the advocate of Congressional restraint.

EDWARD M. KENNEDY,
U.S. Senator.

SANTA MONICA EVENING OUTLOOK ENDORSES S. 3480

Mr. MURPHY. Mr. President, the Santa Monica Evening Outlook of March 9 contains an excellent editorial endorsing S. 3480, the Comprehensive Head Start and Child Development Act of 1970, introduced on February 19, 1970, which I coauthored.

Mr. President, I ask unanimous consent that the editorial, entitled, "Working Mothers and Their Tots," be printed in the RECORD.

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

WORKING MOTHERS AND THEIR TOTS

According to an October 1969 estimate, one-third of the women in the United States are now employed outside the home, and the children of working mothers number over 12 million. Approximately 3 million of these children are between the ages of 1 and 5 and come from low income families. It follows that child care and child development facilities are a very important sector of the welfare system and must be considered in the major overhaul of that system to which President Nixon would give high priority.

The many existing programs which provide child care and development services for under privileged children need to be combined and extended to include children of working mothers not on relief. They include the Head Start program, the pre-school segments of the Elementary and Secondary Education Act; day care programs for children of migrant workers and for AFDC-H children, and several others. Accordingly, Sen. George Murphy of California has co-authored with Sen. Prouty of Vermont, a bill titled the "Comprehensive Head Start and Child Development Act of 1970," that will coordinate and improve all these programs.

Commenting on the "astronomical" cost of such programs productive of bureaucratic confusion, Sen. Murphy said: "It is clear that no one level of government or one sector

of our economy can do the job alone. It must be a joint effort involving not only federal, state and local governments, but also the private sector, including profit-making organizations . . . this bill encourages private industry to become participants in the area of child development. At present such organizations (private schools) provide more than half of the pre-school and day care services available, and they are able to do it in areas where government services are not available and give services of equal or better quality at equal or lower cost than public programs. It obviously makes sense to use this tremendous potential."

The act also provides for evaluation of present programs and future needs, and for training of professional or paraprofessional personnel. It should need no larger funds than are presently being spent on child care and development programs. Sen. Murphy estimates the cost at $123 million for fiscal year 1971 and $125 million for fiscal 1972.

Disadvantaged children will be given priority, but the involvement of private enterprise will make such services available to children other than from low income families. Thus it is designed to help 12 million children of working mothers and not only the 3 million of preschool age whose mothers are very poor.

Will the Democrats support this bill? It is hard to see on what grounds they can criticize it, for it aims to improve the child care services for disadvantaged children and ease the lot of mothers on welfare, so that a larger number of them will be able to seek gainful employment. We can see no reason to object to bringing private enterprise (private schools) into the plan, if these schools "give services of equal or better quality at equal or lower cost than public programs." To socialists that idea will probably be abhorrent, but let them answer the question why 9 million working mothers who are not on welfare should be deprived of the child care and development facilities given to 3 million disadvantaged children.

We think any bill which aims to help working mother should be judged to the total number of those it will help and also by the criterion of cost. By both standards this Murphy-Prouty bill seems an excellent measure.

OIL POLICY HURTS MIDWEST

Mr. MONDALE. Mr. President, there has been widespread criticism of President Nixon's recent order limiting imports of Canadian oil. This action was the subject of an editorial published in the St. Paul Pioneer Press on March 30, 1970. The Pioneer Press said that the President's "restrictive order will stimulate higher prices at a time when inflation control is needed. Southwest oil producers will be protected from competition at the expense of Midwest consumers."

The editorial also said that this "ill advised policy" is of "doubtful validity" because bringing in crude oil from Canada would not threaten our national security. I believe that the editorial effectively states the case for cancelling this unwise order, as a bipartisan group of 25 Senators from northern States has urged.

I ask unanimous consent that the editorial be printed in the RECORD.

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

OIL POLICY HURTS MIDWEST

A vigorous protest against President Nixon's order to reduce imports of low price crude oil from Canada has been made by a bipartisan group of 25 senators headed by Walter Mondale of Minnesota. Among them are both Majority Leader Mike Mansfield of Montana and Minority Leader Hugh Scott of Pennsylvania.

This restrictive order will deprive refiners and consumers in Minnesota and the Midwest generally of needed supplies of Canadian oil now coming in by pipeline. It will stimulate higher prices at a time when inflation control is needed. Southwest oil producers will be protected from competition at the expense of Midwest consumers.

Senators from the entire northern tier of states all the way from Montana to the Atlantic coast, plus others in the Midwest and East, joined in the protest. They urge the President to defer implementing his order limiting imports to 395,000 barrels a day and to direct the State Department "to enter into immediate negotiations with Canada looking toward the prompt establishment of a freer exchange of petroleum."

The objection to the Administration action should be heeded by the White House. The Midwest has been getting about 500,000 barrels of Canadian crude daily at prices 30 to 50 cents a barrel under what must be paid for oil from the Southwest. Canada wants to sell and the Midwest wants to buy. Washington should not discourage this natural commercial interchange. The United States oil industry already is over-protected by the government import quotas which prevent American consumers from buying cheap Middle East oil.

Another pertinent objection to the President's order raised by the senators regards his statutory authority for taking such action. Federal law gives the President power to restrict imports only when they "threaten to impair the national security." There has been absolutly no showing that bringing in crude oil from Canada is a threat to United States security—in fact the results point in exactly the opposite direction. Domestic reserves would be conserved. The restrictive order is therefore of doubtful validity.

The Administration has adopted an ill advised policy on Canadian oil which is unfair to Midwest Americans. It would be wise to accept the suggestion of the 25 senators, defer implementing the restrictive order and undertake instead to negotiate with Canada for "a freer exchange of petroleum."

EXPANSION OF DEFINITION OF ECOLOGY NEEDED

Mr. HART. Mr. President, the Progressive magazine devoted its entire April issue to the subject, "Crisis of Survival." Many leading public and private figures addressed various aspects of the struggle to improve the quality of the environment and of life.

In "The Plight of the Cities," Mayor John V. Lindsay points out that conservation includes human resources as well as natural resources. The environmental problem does not stop at the city's edge.

In the fervor of the environmental movement we must not lose sight of the need to expand the definition of ecology to encompass the manmade and natural worlds. The obligation for man is to enhance greatly the quality of both.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE PLIGHT OF THE CITIES

(By John V. Lindsay)

The degradation of the environment is by now a familiar story: polluted air and water, a decaying physical plant, massive sanitation problems, sharp rises in congestion and noise that bring tension, lost efficiency, and incivility.

We are suffering from the mistakes of decades. Poor planning and runaway technology have bequeathed us staggering problems that until recently we have hardly seemed to notice. Marshall McLuhan writes: "If the temperature of the bathwater rises only one degree each half-hour, how will the bather know when to scream?" Urban pollution has accumulated just as imperceptibly for years, and only now is the scream being heard.

We now know that our cities have developed their own perverse ecology, each problem feeding another, often attracting "solutions" which merely shift the crisis from one area to another. The need now is to think in terms of total environment. No area of city government or industry can act any longer without regard for ecological consequences. Ecology cannot be thought of as a department of government or the job of a few, but as a web of values that permeates all urban thinking.

One point is clear: Technology produced the crisis and technology can end it—if we are thoughtful in using it and willing to pay the price. More expensive but less poisonous fuels are available, and more and more effective filters and gas traps are being developed. Techniques are known whereby garbage can be compressed or burned, with the recycling of potentially valuable waste into chemical by-products and building materials. We know how to package consumer goods in materials that save space and decay rapidly. Effective sewage techniques are old and familiar. All that is needed is the money and the will.

I do not mean that solutions will come quickly or easily, if only because of the enduring political habits of this nation. The cities have been shortchanged by the states and the Federal Government for so long that it would be surprising indeed if the same pattern does not evolve in the current environmental crusade. Already many are using the term "ecology" in its narrowest sense, as if the need to protect our resources is a kind of conservation that stops at city borders.

The city is the environment for a growing majority of our citizens. It would be as shortsighted to save the countryside at the expense of the city as it would be to allow ecology to grow into a middle-class whites-only movement. Lead poisoning, rats, the filth of the slums are just as much environmental problems as saving the redwoods and healing the scars of strip mining.

We owe a large debt to those individuals and groups, on campuses and around the country, whose missionary interest in ecology has now burst upon the national consciousness with the fervor of a crusade. But the sudden emergence of this issue may have raised some unreal expectations, the foremost being that ecology is somehow above politics, uniting Northerner and Southerner, Republican and Democrat, left and right. ("After all, no one is pro-pollution.")

After the political exhaustion of 1968, and the heavy drain of our war in Vietnam, the nation badly needs to feel a common sense of mission and unity. But ecology can hardly make our differences disappear. If, for instance, the left is given to believe that it must mute its peace activities for the sake of reclaiming the environment, if ecology is made to seem a cover for our differences rather than a coalition to solve one of them, then the movement is doomed to disillusion.

Where there are priorities there is politics, and the movement to reclaim our environment is no exception. That movement will require billions of dollars over a long haul, and that money will not be available until our expensive commitment in Southeast Asia comes to an end. Even then, extensive politicking will be necessary to sort out priorities

of reclamation and to sustain the political pressure necessary for reform. In the cities, overlapping jurisdictions and the current complex relations with suburbs, some of them in adjoining states, assure us cleaning up the environment offers no vacation from politics.

In the cities, the first problem is one of morale. Many studies have indicated a pervasive feeling of hopelessness about the city, a sense that our urban centers are out of control. Littering and slovenly habits that degrade urban life are viewed as simple expressions of this attitude, and the first priority is to change it with concrete reforms, however small at first, that residents can appreciate.

City governments must lead, but the time is long past when solutions to complex problems could be imposed from the top. The aim should be rather to take advantage of the new awareness and encourage the formation of neighborhood or citizen groups which will fight for their own interests. Already in Brooklyn, neighborhood groups are organizing to boycott merchants who consistently befoul the sidewalk and streets. If this becomes a pattern, the apparent functional belief in the inevitability of dirty cities may be reversed.

Air and water are the most discussed environmental problems in the city, and in New York we believe we have made important strides in cutting down pollution. But the broadening of the environmental movement in the cities, and the involvement of those who live in them, will depend on new ideas and small programs. The banning of one-way bottles, for instance, may appear to be a small step, but it would eliminate much of the broken glass and daily waste in cities. Plastic garbage bags would eliminate noise, unnecessary steps for sanitation men, and avoid spillage at the truck. Large Sunday newspapers, much of their poundage unread, could be sold in sections, easing the Monday clean-up and saving untold numbers of trees that are now cut down to provide unread pages. Manufacturers of the ubiquitous beer can and the cellophane cigarette package, as well as many other packagers, may be persuaded to redesign their products.

With the aid of the Reynolds metal company, New York City is developing a program in which community organizations will return beverage cans for a half-cent per can bounty—a program which we expect to expand over the next five years to the point where twenty-five to fifty per cent of aluminum cans in the city will be reclaimed. Similarly, cities may consider paying a bounty on the abandoned cars which are beginning to engulf the urban scene.

Subways lines may be used for off-hour carting of refuse in special cars and many of the new lines can be planned to tie in with stores along the route so the transfer can take place beneath the streets.

Newly designed automobiles—smaller and electric—would save space and cut pollution. While we are waiting, a smaller, slower, low-compression taxicab would be a feasible advance.

New technology can help us cut down on urban noise—e.g., muted jackhammers and air-conditioners, more attention to quieter aircraft and subways. Honking of auto horns and the playing of radios and tape recorders in public can be prohibited.

Over the decades, each environmental disaster has zoomed to lead to another in an unforeseen but related area. But this interdependence works for the good as well. For instance, New York City may derive electric power as well as a new off-shore island or two from a new incinerating unit now being developed in cooperation with the Department of Health, Education and Welfare. This new unit, compact enough to be located in many neighborhoods of the city, thus reducing expensive hauling costs, shreds waste and burns it more efficiently in a fluidized bed furnace. The off-gases are cleaned by an electrostatic precipitator, and the heat can be used to generate about seventeen megawatts of electricity. It also produces an ash that is ideal fill material. We are currently studying the possibility of using it to build an island in the upper bay that might shield the lower Staten Island beaches from the polluted discharge of the Hudson and hasten the reopening of these beaches for swimming.

Another example of double benefit to the environment is Riverbank, a sewage plant New York is building on the bank of the Hudson to clean our share of that river's pollution. The roof of the low thirty-acre plant, built partly on the shore, partly out into the river, will be developed as a park for the nearby community. Additional acreage will extend the park from 125th Street to 155th Street. The plans, drawn up in consultation with community representatives, include an amphitheater, pools, community center, public dock and fishing pier, restaurant and shops, as well as playing fields for several sports.

Our cities are crowded, land is expensive and scarce. Multiple use of environmental protection facilities is likely to be necessary if the quality of life in our cities is to be improved.

As we go deeper into the problems and integrate the planning of all city agencies in the light of environmental problems, many new options will open up. In New York, for instance, it may well be that forty miles of efficient new subways will do more for our atmosphere than tinkering with the internal combustion engine. It is clear, at least, that the long range effort to protect the environment must include drastic changes in transportation, in housing, and in commercial activity.

We do not yet know whether a major shift in the economy and consumer habits will be necessary to make the cities what they can and should be. The planned obsolescence of goods which we seem to have adopted as a national policy runs counter to the needs of controlling our burgeoning output of refuse.

"Ours is an age," Lewis Mumford writes in *The City in History*, "in which the increasingly automatic processes of production and urban expansion have displaced the human goals they are supposed to serve. Quantitative production has become, for our mass minded contemporaries, the only imperative goal: They value quantification without qualification."

As the emphasis shifts from the quantity of goods to the quality of life, every aspect of the city's life will have to be looked at in a new light. Attitudes toward production, privacy, space, and civic responsibility—to ourselves and succeeding generations—will have to be rethought. We do not yet know where the quest for the quality of life will take us. All we know is that the trip will be long, difficult, and expensive.

MARY READ ROGERS, WOMAN OF ACHIEVEMENT

Mr. HANSEN. Mr. President, Wyoming people have always been proud of the accomplishments of women of our State. Their ability has been recognized for many years, and Wyoming was the first State to grant to women the right to vote. Even today, Wyoming still is known as the "Equality State."

Wyoming has had many outstanding women. We have had a woman Governor, and at present our second highest elected State office is held by Mrs. Thyra Thomson, the secretary of state.

Another outstanding woman, who has been recognized by the Wyoming Press Women, is Mrs. Mary Read Rogers, of Cheyenne. Mrs. Rogers this year received the Press Women's "Woman of Achievement Award." She was presented the Wyoming award at the 71st convention of the Wyoming Press Association in January.

Mrs. Rogers has been entered in the national competition for the 1970 "Woman of Achievement Award."

Mr. President, I ask unanimous consent that an article published in the March issue of Wyoming Press and a partial listing of some of the achievements of Mrs. Rogers, a woman whom we greatly admire, be printed in the RECORD.

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

[From the Wyoming Press, March 1970]

MARY R. ROGERS CANDIDATE FOR PRESS WOMEN'S AWARD

Wyoming Press Women's "Woman of Achievement" for 1970, Mary Read Rogers, coordinator of public relations and publications for the Wyoming State Library, Cheyenne has been entered in national competition for the 1970 "Woman of Achievement Award" of the National Federation of Press Women.

The award recipient will be announced at the national convention in June in New Orleans, Wanda Banta, woman of achievement committee chairman, WPW said.

Mrs. Rogers was presented with the state award at the 71st annual convention of the Wyoming Press Association in Casper Jan. 24.

Her final nomination for the national competition was made at the Cheyenne luncheon of the Wyoming Press Women at the Hitching Post Inn.

She was selected for her outstanding contributions in the field of writing, music, education and civic activities as well as library work.

WHY IS MARY READ ROGERS WPW'S 1970 "WOMAN OF ACHIEVEMENT?"

1970 Executive Director, National Library Week.

President, Wyoming Press Women, National Federation of Press Women.

Holds many state and national WPW writing awards, co-editor "Active Dames Kookbook."

Wyoming Federation of Music Clubs, past president.

Rocky Mountain District, NFMC's, past president.

National Federation of Music Clubs, past board member.

Wyoming Federation of Women's Clubs, past president.

Editor, "Wyoming Club Women."

Past member of Governor's Steering Committee on Educational Problems.

Past member, Wyoming State Board of Education.

National Association of State Boards of Education.

Vice President of Rocky Mountain Area, National Association of State Boards of Education.

Wyoming representative to White House Conference on Education.

Wyoming Parent-Teachers' Association, past president during 50's.

Editor, "Wyoming PTA News."

Member of Board, National Congress of Parents and Teachers.

Director of National PTA magazine and national chairman of publications during 50's.

Multiple service with:

Wyoming Library Association—Mountain Plains Library Association.

American Library Association—Public Relations Roundtable.

Public Relations Section—Public Relations Service to Libraries.

American Library Trustee Association—American Association of School Librarians.

Wyoming Association of School Librarians—Wyoming Instructional Media Association.

Wyoming Adult Education Council.

Wyoming Council for Economics Education; on advisory committeee to the President of the University of Wyoming.

President of Cheyenne Branch American Association of University Women.

Editor of Art Resources in Wyoming 1961.

Legislative Chairman for Wyoming Mental Health Association.

State Advisory Committee for Civil Defense.

Edited "Wyoming Women in Civil Defense."

Advisory Committee member for Region VII, Civil Defense.

Listings and Honors:

Cheyenne "Woman of the Year 1955"—Wyoming "WPW Woman of Achievement."

"Outstanding Civic Leaders of America"—"Who's Who of American Women."

"Who's Who in the West"—"Who's Who in Library Service."

"Dictionary of International Biography"—"Who's Who in National Federation of Music Clubs."

"Directory of American and British Journalists 1970."

Wife of State Senator Glenn K. Rogers, (D. Laramie).

Mother of one daughter, Mrs. Donald (Mary Lee) I. Meyer.

Graduate of Baker University.

Former Teacher.

Coordinator of Publications and Public Relations.

Editor of Wyoming Library Roundup and Outrider, Cheyenne, Wyoming.

SHOPLIFTING AND THE BUSINESSMAN

Mr. BIBLE. Mr. President, the Senate Small Business Committee is presently conducting an investigation and hearings into the impact of crime on small business. One problem constantly plaguing merchants is that of the shoplifter, who, it is estimated, costs American businesses some $2 billion annually. These losses due to shoplifting are estimated to have increased more than 150 percent in the last 10 years.

The retail industry calls all of its thievery and losses, including shoplifting, by the uncriminal-like label of "shrinkage," with such losses increasing the price of retail goods to the consumer as much as 7 to 15 percent.

A timely and informative article on this subject, entitled "One in Ten Shoppers Is a Shoplifter," written by Mr. Peter Hellman, a contributing editor of the New York Times Magazine, appeared in that publication on March 15, 1970, I ask unanimous consent that the article be printed in the RECORD.

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

ONE IN TEN SHOPPERS IS A SHOPLIFTER

(By Peter Hellman)

A professional team of shopper watchers recently kept an eye on about 500 persons, selected at random, who walked into a midtown Manhattan department store. The team reported that one of every 10 of the shoppers walked out again with merchandise she did not pay for. (Overwhelmingly, shoplifters are she's.)

There are store managers who brush aside this figure as too high to accept as a percentage of shoplifters among shoppers. Many detectives who walk the floors of big stores all day think the figure is too low. What both retailers, large and small, and store detectives agree on is that shoplifting is on the upswing across the nation. The F.B.I. concurs; its findings show that shoplifting increased more than 150 per cent since 1960—a rise greater than that of any other crime except purse-snatching. Retailers estimate that they will lose $2-billion to shoplifters this year, and that were it not for theft they could reduce prices across the board by 15 per cent.

Retailers are involved with more than high financial stakes in their fight against shoplifting. They are intimately involved with the social conditions around them—for minor criminals such as shoplifters seem to reflect more than major ones the stresses and malaise of the moment. Thus, merchants are dealing with the current wave of drug addicts who take up shoplifting to pay for their habit. And with the inflation-pinched housewife, the thrill-seeking officeworker, the undisciplined "daddy's little angel," the luxury-lovers and the socially embittered. In dealing with the light-fingered, who span all ages, retail merchants find themselves in the roles of policeman, prosecutor, psychologist, probation officer and victim.

Store security men classify shoplifters as amateurs, professionals and—yes, it is a separate pathetic category—drug addicts. To a man they claim never to have seen a so-called kleptomaniac and they say that the stories about rich wives whose compulsive filching is quietly kept track of and added to their husbands' monthly bills are myths.

The professional shoplifters work at grabbing goods which they will resell to a fence or directly to people on the street. Often they come into a store with specific orders to fill: one of *their* customers may want them to steal a size 42 long blue pinstripe suit, another may request a silver tea service in a particular pattern. Professionals get their jobs done speedily, most often carrying no bag of any kind. They prefer to maneuver stolen goods under a coat or skirt which may have clothes hooks or large pockets custom-sewn to the inside. The maxicoat is a blessing to professional shoplifters. Being stout helps, too—fat women who shoplift professionally can with practice become adept at a skill called "crotch-walking"; that is, they work merchandise up between their thighs (their general ampleness of figure hides the bulge) and then walk out with no apparent change in their normal step. Crotch-walkers have been caught taking many sorts of goods out of stores this way, including small television sets. Crotch-walked goods are retrieved by female detectives after all males have left the security office.

Amateur shoplifters are those legions of housewives, office-workers, teen-agers and subteens, foreign visitors and others who from time to time are moved to steal. Shoppers faced with long lines at the cash registers, for example, may become shoplifters at the moment they decide they will neither wait nor put back the merchandise. Or they may steal to square a grudge they have against a store because it did not make a return or adjustment to their satisfaction. Most adult amateurs can afford what they steal even at the time they do it; one man nabbed for lifting a pair of $7 gloves at a downtown store had $600 in his wallet. "Mostly these are just people who want something for nothing," says one store's security chief. "They let greed take over."

In both city and suburban stores more teen-agers are picked for shoplifting than any other age group. This does not mean necessarily that they are the largest group among amateur shoplifters. Teen-agers are not yet as practiced as adults in smoothing over the outward signs of dishonesty, so they often give themselves away. Store detectives also admit that they preselect the incoming customers they will watch—and since teen-agers are conspicuous, they are most often under surveillance, while older and more respectable-looking shoplifters will get more unobserved operating time.

Amateur shoplifters often carry large handbags and umbrellas into which items can be dropped. Mothers sometimes use their children as accomplices, and baby carriages to haul out stolen goods. A mother with a child old enough to walk may send him off to pick up an item, then tuck it under the baby in the carriage. Some women roam stores with empty baby carriages.

There is an élite among amateur shoplifters. The members of this group are distinguished by greater skillfulness than most amateurs possess. They are sometimes called "shadow professionals." They steal for themselves or for members of their intimate circle on a regular basis but do not steal for a living. Their techniques are honed and individualized. Stores can suffer losses from shadow professionals as damaging as those from professionals.

Shoplifting is something of an acquired taste among shadow professionals, and most of them have been emboldened by successive undetected forays. The very model of a first-class shadow professional is a 26-year-old assistant to a New York foundation executive. JoAnn is clean-featured and clear-skinned, with striking gray eyes and a bouncy walk. She enjoys talking about her shoplifting. "My job routine used to be very dispiriting, very dull," she explains. "I would come in on the subway in the morning, trudge out to the sandwich shop at 12:30, trudge back at 1:30 and work until 5, get on the subway and go home to my guy in Brooklyn. What a bore. Well, the routine is still the same—except that now I bring a sandwich in wax paper which I gobble down in a minute and then I spend my lunch hour going around lifting stuff we need.

"The first thing I took was a bottle of soy sauce I needed for a Polynesian chicken dish I was going to make for company. It was just the spirit of the day—I was looking at it, turning it around like a housewife—and I dropped it into my handbag. So simple.

"I really mean it when I say it's turned into something that makes me look forward to my lunch hour. On the subway in the morning I think, 'What can I lift today?' 'Where will I go?' I plan dinner; usually I can pick up most of what we need. We're saving for a trip to Europe this summer, and it seems silly to spend good money for food when we could be sticking it in our savings account. It's funny—all the girls have little cupboards at the office, and mine is always filled with things like lettuce heads and lamb chops.

"There isn't much that won't go in a purse: a split of champagne; a nice goldplated flashlight I found in a gift shop on Madison Avenue; Argyle socks for when it gets cold; a copy of Hemingway's short stories in hardcover. It all goes in the bag—plonk, plonk, plonk. I have gotten so that I honestly feel I have 360-degree sensory perception. I can be facing a shelf and *know* whether somebody is behind me watching. If I get bad signals, I put the item back.

"There's an esthetic to this: I always end my trips by dropping in the bag either a can of Beluga caviar or a bottle of Macadamia nuts. It's like my signature at the end of working hard on a painting that comes out well.

"When I'm on the subway at night now I don't have to sit there like a glum bunny waiting for the stops to go by. I take out the stuff, piece by piece, look it over, gloat a little. Then when I'm home I perform the same routine for my guy—an unveiling of the new line.

"So now I have a craft. It is more rewarding in some ways than my job. It gives me something to look forward to—on the train in the morning, at lunch, on the way home. You could say it makes my day."

By far the easiest of all shoplifters to spot are the heroin addicts who sweep into midtown to make a desperate grab for enough merchandise to pay for their daily habit. They can be seen on most any day loping with eyes bright, or dull, depending on how long it has been since their last fix, through the aisles of all the large stores in Manhattan. Two years ago Macy's reported that only 5 per cent of its apprehensions were addicts, but today the figure must be higher. A majority of addict-shoplifters also seem to be high-school students.

In the big stores' security offices, where unlucky shoplifters are brought, sometimes half a dozen addicts are gathered at once, heads lolling, arms flung up bare for the detectives to inspect the red-and-blue bumps along their length. Heroin seems to stretch their limbs out as well as their veins; so many of them are spindly tall. The conversations between them and the detectives don't change much from store to store.

"How many bags [of heroin] you taking a day, son?" asks a detective of a 16-year-old who says he is enrolled at Morris High School. "Three bags? Six? Ten?"

"Just five."

"Five-dollar bags?"

"Nope; two-dollar kind."

"You tell your mother about this?"

"Nope."

"Why not?"

"It's a hard thing to tell her."

"And she doesn't see your arms messed up like that?"

"I keep my sleeves rolled down."

"Even in the summer?"

"Yeah."

"So you're not gonna even ask for help. You're just gonna O.D. [overdose] out on her. Sure—you think you can break the needle and throw it away. But you never will unless you go back to South Carolina where it's clean and get out of the garbage here. Otherwise you know what's gonna happen? Same thing that happens to nine out of ten of you guys. Some morning you're gonna be an O.D. case out on the street. They'll pick you up and drop you in the trash can. You'd be better off shooting up an overdose now—otherwise one of your buddies who wants your kit is gonna bust your head while you're nodding anyhow."

The boy jerks his head up, eyes wide, as if he sees something charging at him from out of the wall. "Oh no? It ain't got no power over me . . ." It ain't got no power over me . . ." His head lolls again. "It ain't . . . got no power . . ."

Most stores use a mix of mechanical and human counter-weapons against shoplifting. On the mechanical side, the most common device is still a mirror. It may be the no-nonsense convex disk mirror which the shopper feels eyeballing down on him from an upper corner. Or it may be a more stylish adaptation, like the lavish use of mirrors at Lord & Taylor, sections of which are one-way see-throughs, that serve the double function of detection and of giving a spacious air to the selling floors.

Mirrors of the disk type are of dubious value. "Merchants tend to forget," says Robert Curtis, a consultant to the President's 1968 Crime Commission, "that while it's true they may be able to look up in the mirror and see what a person is doing, the shoplifter can just as well look up and see the merchant staring at her. If she sees he's looking, she won't steal. And since *she* and only she knows the exact moment at which she's going to steal, she will be watching in the mirror when it counts. It will be plain lucky if the merchant chances to look up at the same moment."

The most elaborate detection system in general use is closed-circuit television. In its main store, Macy's has 48 cameras peering about which are monitored from a fabulous communications center, darkened and electronics-choked like a military command post. Twelve screens in a wraparound console show the scenes the cameras record. When a person shows up on one of them doing something suspicious, the nearest detective or uniformed guard is directed to the spot by two-way pocket radio, while the surveillance is continued by the crew which mans the center every minute the store is open. The cameras can be directed by remote control to zoom in on a scene to pick up detail.

As at Macy's, few stores bother to hide their cameras. Some even add dummy units on the theory that the honest shopper doesn't mind cameras and that the would-be shopper should be made as uneasy as possible.

A recent electronic innovation of interest to many security chiefs is a plastic wafer which is attached to merchandise so that it can normally be removed only by a special machine at the cashier's desk. If the wafer remains on merchandise as it is carried out of the department under a wired exit portal, a transistor implanted in it sets off flashing lights and buzzers. In Manhattan the device, under the trade name KnoGo, is being used by Alexander's in its men's department. The chief virtue of the system is that it keeps goods in the store. It would be difficult to prove in court that a shopper who went out of a certain department with unpaid-for merchandise had theft on his mind, but at least the goods will either be paid for or returned.

All persons who set off KnoGo must be treated with great caution no matter what they seem to be hiding, because the mechanism is temperamental and on occasion will send signals without being provoked by wafers. One afternoon a teen-age boy set off the alarm at two different exits. He voluntarily submitted to search, but nothing was found. He left, but was brought back an hour later by his irate mother who could be heard hollering behind a closed door for the next 30 minutes at the security supervisor. If that was all she did, he would have been relieved; false-arrest suits by ordinary citizens commonly find sympathetic jurors.

At Alexander's, KnoGo is only an experiment on the part of the store's security director, a white-haired, serene and finely dressed man named Arthur Riley. He is known as the chief innovator in his business and also as its best shoplifter catcher. His detectives are reported to have apprehended 18,000 persons in the chain's eight stores last year, a total approached only by the much larger force at Macy's. Security at Macy's salutes Art Riley by posting a dictum of his over the door to its sprawling offices: If You Didn't See It, It Didn't Happen. This rule is impressed upon all detectives because of the fear of false-arrest suits. "Mr. Riley always reminds us," says one of his detective trainees, "he'd rather have us pick up three cases in a week and make them all stick than pick up 33 cases and lose even one of them."

Despite the new electronics, the department stores continue to defend against shoplifters chiefly with plainclothes detectives who mix in with shoppers. Discounters like Korvette and Klein's must keep more detectives on the floor than "full-service" retailers to compensate for the lack of salespeople and the accessibility of goods. On a busy day Alexander's has 25 detectives circulating at its Lexington Avenue store. The figure for Klein's is slightly lower, but it is made up for by a large force of uniformed guards. Some stores like Bloomingdale's and Saks work hard at not projecting a forbidding image, so they almost never use uniformed guards on the floor. Other high-quality stores, like B. Altman, think nothing of ringing the place with guards at heavy shopping periods. "It's a form of saber-rattling," says security-consultant Saul Astor. "They want to do whatever they can to influence that moment at which a person decides to steal or not to steal."

The really awesome force of detectives and guards is at Macy's; it totals 200 men and women, some of whom reportedly step out of secret doors in pillars to nab shoplifters. They are trained to form on short notice into tactical detachments which can sweep the store of undesirables in several minutes. (Tactical groups are used by professional shoplifters, too: A team of four well-dressed girls working Manhattan stores last year would move into a department and one girl would occupy the salesgirl, another would be ready to distract any other sales person who came over, the third would stand lookout for any security types coming into the area, while the fourth girl helped herself to merchandise.

All store detectives are in their looks and actions one with the customers they mix with. In a bargain basement they will be vaguely scruffy. In an old-line department store they will be well-turned-out and staid. In a *boutique* they are sharply mod. It does not occur to most people that the authority of arrest can be vested in a gum-chewing girl in bell-bottom slacks and sweatshirt, with long hair hanging straight down, and with the rounded cheeks and wide blue eyes of a J.V. cheerleader. But that is the kind of girl who is one of a downtown store's best detectives. When a dignified older man she had picked up was asked in the security office why he was smiling, he answered, "Believe me, nothing's funny—it's just that this girl looks like my own daughter."

In some stores detectives have free choice as to where they prowl. Special areas like Alexander's Crystal Room have a detective posted to keep the store's most expensive coats from walking out. In other large stores like Macy's, detectives circulate in one department only. "We pass a suspicious shopper on from one surveillance post to the next," says Jim Kerin, an ex-F.B.I. man who is chief of security at the biggest store in the world. "All our people have pocket radios and they just call ahead to the next place the individual is heading." Kerin makes it clear that what constitutes a suspicious individual in the eyes of his detectives is not necessarily the one who looks suspicious to the untutored shopper. "You take a guy who comes in here in a grimy pair of overalls," he explains. "Now to your eye he might look disreputable. But to us he's just a Con-Ed man in on his lunch hour to buy his wife a birthday present."

Once detectives pickup a "case" as they call a shoplifter (they call themselves "D's") they must follow the person without losing sight even for an instant. In order to make a charge stick, a detective will normally not pick up the person until she goes out a door to the sidewalk. What is done then is close to a formula at most stores; at Alexander's the detective who is following behind the shoplifter makes a sign to the guard at the door. The guard follows six steps behind the detective. When the person gets outside, the detective catches him gently by the arm with one hand, shows a badge with the other and whispers, "Excuse me, but I think you forgot to pay for something." The person will almost always come. If not, the guard is there for strong-arming.

Under a recent amendment to the State Banking Law, lobbied for intensively by retail merchant groups, it is now legal for store security employes to pick up a shoplifter in the store who has been seen to conceal goods on her person—even if she has not left the premises and in theory might still pay. Apprehensions made under the law will not bring convictions from most judges, but it does keep shoplifters who realize they have been seen from dumping the merchandise.

Store detectives can be deputized by the city if they meet tough police qualifications. In that case they can make a police arrest of a shoplifter just as a regular policeman would. All of Macy's detectives are deputized and they go through the full procedure of formally booking and fingerprinting an accused individual. But most stores do not use deputized detectives because they would rather have employes on the city payroll instead of their own go through the lengthy booking procedure. So the normal store pick-up is made as a "citizen's arrest."

If a decision is made to prosecute, the police are called and the accused is taken to the station house where a police arrest is made on the basis of the store detective's statement of the act he witnessed. If the individual is a resident of the city, he is normally released under his own promise to appear in court when called—except in the evening, when the case goes straight to night court.

"What most people fear during the act of shoplifting," says security-consultant Curtis, "is not that they will be punished—they don't think that far ahead. What they fear is just that they'll get *caught*. That means shame and embarrassment and the stripping off of the label that reads, 'Respectable Citizen.' It is just as if you are driving along and see a cop pull up alongside you. Your instinct is not to worry that you'll be punished; you worry that you'll be pulled over."

An airline stewardess picked up with 10 unpaid-for items in an East Side store remembers that "the worse part of it was when I was sitting in the security office waiting for them to fill out forms. A man came into the office—I think he was the boss—and he looked at me sitting there for a minute. Then he said, 'Uncross your legs and sit up like a *lady*.' I felt like some kind of filth."

As a first offender the girl was let go. She is rare among shoplifters in that she did not steal even once as a child. "Why should I have?" she asks. "My father was glad to buy me anything I wanted. He's a banker, you know." Her face clouds. "Oh, gosh, if they had told my father he would have been destroyed. I am his perfect angel."

Some shoplifters, especially if they are men, seem to wither after they are caught. Paul Hamilton is a tall fellow of 30 whose inherently good features should make him as handsome as a screen idol. But he has a gray pallor. When he smiles he seems to be smiling at something revolting. At least that is how he has been smiling since he was picked up outside Alexander's with a cashmere coat over his arm he had not paid for. Because the coat sold for a bit more than the figure below which Alexander's does not prosecute first offenders, Hamilton was not let off with the usual lecture. After he had answered all the questions and had his money counted in the security office, he waited for a patrol car to take him to the local precinct to be fingerprinted and charged. "Humiliating. They (the policemen) put handcuffs on me and led me out with all the people staring. Even before they came my adrenalin was going and my stomach was acting up bad. A black kid, maybe 12 at most, was sitting there, too. He was trying to be nice to me; he came over and said, 'Geez, mister, you okay? You look terrible.' And he was so calm."

Hamilton has a degree in piano from a first-rank conservatory. He could not break in anywhere as a soloist and he did not want to teach, so he took a job as a clerk in a Wall Street brokerage house. His bonus was not large this past Christmas because of diminished volume and falling prices in the marketplace. But he bought an expensive dress for his wife to wear when they went out on New Year's Eve. He also had saved enough for the cashmere coat at Alexander's. Then a sudden illness in the family depleted that money.

"I was looking at my wife trying on the dress—she's a beautiful girl—and I remember thinking how great it was on her. And then I thought, damn, I'd like to look nice when we go out. I really want that coat."

Hamilton bought a penknife before he went into Alexander's, but he was so jittery that he cut his thumb and his index finger as he cut the tags off the coat. The detective who was watching him said, "The guy was like a Roman candle to me, he was so full of nerves."

After he was caught, Hamilton went back to his job during the month before his arraignment at Criminal Court. In that month he could not bring himself to tell his wife what had happened. On the morning of the arraignment, he and the detective arrived separately at 9 o'clock. Macy's and Gimbel's keep a detective in residence at Criminal Court to expedite their cases by having them called ahead of others. Alexander's does not, so the affair takes all day. Except for the lunch hour, Hamilton sat stiffly upright in a hardwood pew of the court, picking his fingernails with other fingernails, his large feet together. At 4:06 he was arraigned after three minutes of buzzing between prosecutor, judge and his Legal Aid counsel. The trial was set for a month later. "I begged the lawyer," Hamilton says,—" 'Can't they just say I'm guilty and get it over with? I can't stand any more waiting.' "

But no judgments are passed at an arraignment, so Hamilton went home to wait; the trial has since been postponed again. If he is convicted at the trial, he will almost certainly get a suspended sentence as a first offender. He still could not manage to tell his wife what happened even though she and their two children knew something was wrong. "I just can't tell her until I get this settled in my own mind," he had said at the arraignment. Three weeks later they separated.

Psychiatrists and security chiefs are in many cases not convinced that the people who are caught shoplifting should go to jail or even be prosecuted. For one thing they question the effectiveness of punitive measures. They point to Macy's, where *all* acts of shoplifting, no matter how small, are normally prosecuted but where the inventory shortage problem remains as bad as or worse than at more lenient stores. When Bob Curtis was the security chief at Lord & Taylor some years ago, he instituted a program which guaranteed that shoplifters who agreed to seek professional help would not be prosecuted. Curtis says that psychiatric problems were found to underlie most of the shoplifting acts. He feels that many of the patients were helped to understand their problems better and did not repeat; at least they dropped out of the records of local stores to a far greater degree than other shoplifters who were let go or prosecuted.

As for the kind of problem that might lead a disturbed person to shoplift. Dr. Ralph Banay, president of the Medical Correctional Association, points to the case of a woman who regularly stole dresses she did not need. Psychiatric treatment disclosed that her thefts of the dresses represented an unconscious effort to get on an equal footing with an older sister who was considered much prettier than she. When she was helped to understand that she did not need to compete with her sister, the motivation for shoplifting vanished. "People like this have violated rules, but they are not criminals," says Dr. Banay. "We should have facilities to treat them. I don't know why we are so hesitant to address ourselves to their need and often profound disturbance."

In some stores security officers attempt their own form of rehabilitation on the spot—especially if the offender is a teen-ager. Many of the younger people treat their own seizure and questioning as a joke: Q. "Where were you born?" A. "In a hospital." One of the security men most adept at stripping away the notion that there's anything to joke about is a detective named Frank Quadrino. He grew up and still lives in the Red Hook section of Brooklyn, and he has a fierce sense of right and wrong that would have been splendidly in place in an old-time New England pulpit.

On a Saturday afternoon a boy named Larry who had bought one LP record and slipped another in the same bag is led into Quadrino's office by a black detective from Jamaica. Larry is from a good family and a good high school in Brooklyn. When he is brought in he is all bravado. The apprehension was made before he left the store because he seemed to have caught sight of the detective and was doubling back to the record department.

Now he is seated in an unhomey chair in the gray cinderblock interrogating area of Alexander's security office. At Macy's the security area is painted a blaring yellow; the idea is to make people want to cooperate when they are questioned so they can get away from that color.

"How do you know I wasn't going to pay for the record?" the boy asks. "You can't *prove* I wasn't going to pay for it."

"Funny thing you'd already put it in the bag and resealed it," answers the detective, who is starting to fill out forms. He asks for the boy's name and address. There is a moment when the boy seems to consider whether to make up something. The moment passes, and he settles on bona-fide information. It is best he decides that way; the detective has sensed that hesitation hundreds of times and he generally can tell a wrong name and address when he hears them. Larry lives not very far from Frank Quadrino, who has been listening behind his newspaper while the detective makes out the papers.

"This is just for your records, isn't it?" Larry asks. "It's not for my school or anything?" The detective nods but it is not clear to what.

"Listen," the boy says. "I'll just pay for the record now and that'll settle it. Okay? Look—I got plenty of money." He pulls out $9 and some change.

"Sit down."

Once the paperwork is done, Frank Quadrino puts down his newspaper and takes over. He leans over the boy, who is slumped in the chair chomping gum. Quadrino has bright black eyes which he focuses on the boy. He starts off calmly—asking what the boy wants to be (an aircraft designer), whether he ever took anything before (a fishing lure), what his father's profession is (accountant).

"Listen, Larry, you come from a good home. Right? Your parents love you. They put money in your pocket whenever you need it. Right?" Quadrino himself ponders that good fortune for a moment. "So tell me why did you do something like this that could bring shame on their house and wreck your life before it barely starts?"

The gum-chewing stops. Larry gulps and blinks. "I . . . I have a friend and he does it all the time; he says it's easy . . ."

"A friend?" Quadrino is incredulous. "What kind of friend is it that would invite you into this kind of trouble?" Quadrino leans forward, his eyes burning, and Larry presses back against the cement blocks. "Because of this friend you could end up having a police record until the day you die. You try to get into college, join the service, apply for a job, and each time you've got to tell them you have a record. That you're a *thief*. How far do you think you can go on that recommendation?

"Let me tell you something else: Not only will you have that record until the day you die—you'll still have is even AFTER you die. It will be right there in the police files. They never, never destroy it."

The flood comes, Larry is racked with sobs. You cannot hear the shoppers outside and for a few moments that is the only sound there is. Then Quadrino steers him gently out of it, lets the boy see, bit by bit, that he will be given mercy. He will not have a police record until eternity. His parents will not even be called on the phone. Larry swears he will never steal again, agrees effusively that it is a stroke of good fortune that he has been caught now rather than later. It is over; he gets up and starts to wobble out.

But Quadrino shoots a question from behind: "And what about all that pot that floats in the breeze on Kings Highway? You in that scene because your *friends* say it's groovy?"

Larry shakes his head fiercely. "I don't smoke pot, I don't even smoke cigarettes."

"Keep it that way." Quadrino nods and motions him out.

At the end of the day, after Frank Quadrino has dealt with 30 shoplifters—two-thirds of them under 18—he sits in the chair they had been sitting in and says, "It's wrong in a way what happens to them. We can lecture them and call their parents and maybe the parents will raise hell—the family name has been shamed and all that. But sometimes this same father who is screaming at the kid is bringing home maybe a couple of hundred dollars in office supplies from where he works. Maybe he puts a $50 dinner on the expense account which has nothing to do with business. To my mind that's at least as bad as stealing one lousy record. But to him what he does is O.K. Then when his kid does take something he goes wild. He can't understand how his kid could steal. Here in America we live in an odd society."

THEY ALSO FEEL THE PINCH

Small stores are as plagued by the shoplifting problem as the big ones. Even the easygoing hippie types in the all-for-love Village shops become rapidly phobic when any shopper acts at all strangely. A liquor-store proprietor on the East Side assigns a man to hurry around replacing bottles on the shelves after purchases have been made; then, by glancing down the even rows, he knows at once when a bottle is gone.

The manager of the Columbia University Bookstore has had to put a full-time detective on the floor because losses have become heavy in the last few years.

A drugstore manager in the East Thirties watches a customer come in late in the evening, identifies him before the door swings shut as one who will be up to no good. The manager talks about moving to Florida—while the man shuffles around at a back counter. "He'll take some Bufferin and maybe some Contac," the manager says. "I wouldn't bother him; these guys can pull a knife. Is it worth getting ripped for a bottle of aspirin?" Three minutes later the man, looking down, walks out, "Good night, sir," the manager calls. "Good night," the man mutters.

THE UPPER MIDWEST REGIONAL EDUCATIONAL LABORATORY

Mr. MONDALE. Mr. President, the need for a shift in this country's priorities is clear. We can no longer afford to spend billions for space voyages and doomsday weapons while leaving many human needs unmet. Explosive problems like poverty, hunger, poor education, racism, and pollution cause tremendous waste of our natural human resources, and must be aggressively attacked now. If we do not act, any other expenditures will likely come to nothing.

The problems we face in education are particularly important, largely because they are at the heart of many of our other problems.

We cannot continue in education as we have in the past. The present deficiencies in our educational efforts can only become more severe as our society grows more complex, and as the educational level required for full participation rises higher and higher.

If we are to avoid the repercussions throughout society which our educational failures will inevitably produce, we must make the entire educational establishment the target of the same vigorous and creative development efforts which we lavished on space exploration and weapons technology. Educational programs must receive a much larger share of the available funds. In addition, a much greater effort must be devoted to long-range development programs which will assure our schools the capacity to meet the demands of the next decades.

We cannot wait for every answer before moving ahead to solve the many problems and support the many programs which we understand now. But, while I greatly fear an emphasis on research which is used to mask a lessened commitment to move ahead on what we now know, I do feel that education has a desperate need for more and better research.

We need to know what actually happens to a student as he progresses through our schools. We need to know precisely how a student learns, and what we can do to help him learn faster. We need to know how to insure that education will quicken the curiosity, not deaden it.

Already we have evidence of the rewards which concentrated research and development can bring. The educational laboratories authorized by Elementary and Secondary Education Act of 1965 are producing the kinds of results we demand. Indian education, for example, is showing some signs of concrete improvement in areas where the laboratories have been involved, as was evident from testimony before the Senate Subcommittee on Indian Education.

One of these laboratories, the Upper Midwest Laboratory in Minneapolis, is doing some very important pioneer work in Indian education and in both public and parochial education in the inner city. Their program is precisely the kind of advanced comprehensive research and development which will bring us the greatest long-term benefits.

UMREL's program has a single focus: Design and development of scientifically engineered educational environments which are suitable for use in school districts across the country. All factors in the education environment—curriculum materials, teacher and administrator behavior, room arrangement—are analyzed to reveal their relationship to the students' academic performance, and these factors are then rearranged to better facilitate and encourage academic success.

UMREL began this program with the sound premise that our school systems will not change overnight. Consequently, when they set up their experimental classrooms in two inner city urban schools and on an Indian reservation, they deliberately stayed with the school buildings, the class sizes and the teachers already in the system. Then with a carefully designed teacher training program, they converted these ordinary elements into a new type of instructional system concentrating on the development of the individual student.

An exhaustive examination of what actually happens when this system is installed in an elementary school is underway, and data is coming in on the effectiveness of the particular classroom arrangement now in use.

To handle the enormous amount of information on the various facets of school operation generated by an investigation like this, UMREL has designed a unique data collecting system called the Personal Progress Data Form—PPDF—which can be interpreted by a computer, but which the teacher can also use. Detailed data on curriculum, reinforcing events, performance time, and subject matter can be analyzed and compared in many ways, both for individuals and for groups

In all laboratory efforts they follow a careful process of functional analysis, deficiency analysis, analysis of alternate systems, and, finally, selection of design and implementation of a prototype system.

The Upper Midwest Laboratory, along with the other laboratories, is developing some real improvements in education, doing the kinds of work we desperately need. Unfortunately, we have not been giving these laboratories the support they need to carry out the complicated and important job we expect of them. They are funded strictly on a year-to-year basis, and are forced to recruit highly trained and experienced professional staff from a variety of scientific disciplines—men who are in great demand—without even the minimal guarantee that their organizations will be in business 1 year later.

The work we need from these laboratories requires concentrated and dedicated efforts which cannot be planned and carried out 1 year at a time, especially while keeping watch for changes in the Federal wind which may gravely affect funding status. How far toward the moon would we have gone if we had required NASA to negotiate a new contract every year?

In an independent appraisal of the educational laboratories, the noted scholar, Dr. Francis S. Chase of the University of Chicago, came to similar conclusions: The educational laboratories are giving us what we need, but they must have better and more long-term support to live up to their promise.

I feel we can no longer afford to give only one-tenth of 1 percent of our total educational funds to research and development, as we did in 1969, while we allocate 15 percent of our defense expenditures to research and development activities. As Commissioner Allen has said, research must be brought out of the periphery of educational endeavor and into the mainstream where it belongs. We can start by giving these laboratories more money, and longer contracts to work on these difficult problems.

They have demonstrated they can do the job, and they are giving us the scientifically provable results we demand. Concrete action to back up our commitment to education is long overdue.

DEATH OF FORMER REPRESENTATIVE STEPHEN PACE, SR., OF GEORGIA

Mr. TALMADGE. Mr. President, Georgians were saddened by the passing on Sunday of former Representative Stephen Pace, Sr., of Americus, Ga. Steve Pace served in the U.S. House of Representatives from 1937 to 1951, representing the Third Congressional District of Georgia for 14 years.

Steve Pace came to Congress with extensive experience in State government, having served in the Georgia House of Representatives from 1917 to 1920 and in the State senate in 1923–24. He was a lawyer by profession and also over the years active in promoting agricultural progress in Georgia. In his later years, he was especially concerned with the growing and vitally important peanut industry.

Steve Pace was a fine gentleman and an outstanding Georgian. His service was marked by distinction and dedication to the best interests of the people of Georgia and the Nation. A devoted and hard-working representative, he was respected by his colleagues. I counted Steve Pace as one of my best friends, and I am thankful for the warm association I had with him and his family over many years. His presence will be sorely missed, and my wife Betty joins me in mourning his passing. We extend our deepest sympathies to his wife and the family.

RELOCATION ASSISTANCE SHOULD INCLUDE COST RESULTING FROM HIGH INTEREST RATES

Mr. MURPHY. Mr. President, the Department of Public Works of the State of California has testimony presented to the House Committee on Public Works on S. 1, H.R. 14898, and related bills on relocation assistance. I particularly want to call the attention of Members of Congress to the concluding remarks which are addressed to an important problem. The State of California urges the reimbursement to property owners for losses due to the present high interest rates on homes. As a former member of the Public Works Committee, I strongly supported the relocation assistance provision of the Federal-Aid Highway Act of 1969. In addition, I supported S. 1, the Uniformed Relations Assistance and Land Acquisition Policies Act, which passed the Senate on October 27, 1969.

I, too, hope that the House bill will include provisions to take care of the situation resulting from the high interest rates. I ask unanimous consent that excerpts from the statement of the State of California, which I endorse, be printed in the RECORD.

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

We should like to conclude our statement with a very important and crucial problem and a proposal to remedy it. It is a situation which has been brought about by the present-day nationwide economic situation and is predominately a problem in the highway program. As you know, the construction of a highway requires the acquisition of many parcels of properties from one distant point to another. All of the parcels must be acquired before the project can be commenced. California has experienced resistance from some home owners and other property owners in the acquisition of these parcels because of the loss of favorable financing. Property owners who are being displaced are being faced with the economic situation that requires them to obtain financing for a replacement dwelling at interest rates much higher than that being paid on the acquired dwelling. California believes that this is unfair and that the property owner should not have to bear the burden of this loss because of the economic circumstances prevailing when his property is acquired.

We believe that in the highway acquisition field an additional payment should be made to such property owners computed on the basis of a schedule which relates to (1) the increase in the interest rate, (2) the remaining term of the original mortgage, and (3) the amount of the unpaid balance of the old mortgage. Such payment should also take into account the average length of time that property owners own their property and should be paid only when the owner has acquired his new residence. Such a payment should be administered at the discretion of the acquiring agency when financing conditions are such that the prevailing interest rate is substantially higher than the mortgage interest rates on the existing loans.

Governor Reagan intends to request the California Legislature to pioneer legislation to resolve this pressing hardship and inequity, and legislation will probably be introduced at the State level next week on this subject. We strongly urge that this Committee and the Congress make this problem a part of its consideration of the relocation assistance law and provide for federal participation in reimbursement for this badly needed type of payment.

SECRETARY HICKEL'S NEW POLLUTION CONTROL RULES SHOULD GO MUCH FURTHER

Mr. PROXMIRE. Mr. President, last week, Secretary of the Interior Walter J. Hickel announced new regulations designed to implement President Nixon's message on the environment. Among other things, the new regulations will impose a system of "cost recovery," which will require those industries that feed their wastes into waste treatment facilities built by the Federal Government to share part of the operating costs. The industrial share will be in proportion to the amount of waste discharged into the system.

Mr. President, I congratulate President Nixon for proposing this approach and Secretary Hickel for implementing it. Such an approach is essential if we are to make significant strides toward cleaning up our environment. However, the Nixon-Hickel plan does not go nearly far enough. It adopts the pay-as-you-pollute idea, which I originally proposed last fall, but on a very limited scale.

The bill which I introduced last November would establish effluent charges on a nationwide scale, for all industrial wastes discharged into our lakes, rivers, and streams. My bill, S. 3181, is entitled the Regional Water Quality Act of 1970. It would set up a system of effluent charges for all industry, and establish a series of regional water management associations to administer the program. The plan would provide industry—all industry—with an incentive to cut down on its waste, thereby to reduce the cost of doing business. At the same time, my proposal would bring in the $10 billion over the next 5 years that President Nixon has said will be needed to fight water pollution.

The effluent charge approach has the virtue of simplicity—the less you pollute the less you pay. It has the virtue of fairness—all industrial polluters will be covered, and the cost of waste disposal will be regarded simply as a legitimate cost of production. Perhaps most important, effluent charges have the virtue of effectiveness—they work. In cities where they have been tried, both here and abroad, the decline in pollution and the improvement in water quality has been remarkable. From Otsego, Mich., to Springfield, Mo., to the Rhur Valley, Germany, the results have been the same: Effluent charges work, often beyond all expectations.

This January, President Nixon's state of the Union message supported the concept underlying effluent charges. Although the term "effluent charge" did not appear, the President said:

> The price of goods should be made to include the costs of producing and disposing of them without damage to the environment.

This is the gist of the effluent charge approach. By tacking on to all other costs of production a charge for the waste byproducts discharged into the environment, industry—striving to keep its costs to a minimum—would have an incentive to reduce its waste discharges to the lowest possible level.

Unfortunately, the regulations proposed by Secretary Hickel fall considerably short of the lofty goals of the state of the Union message. Charging for waste which is routed into waste treatment plants, built with Federal money, in the future, is a far cry from making the price of goods "include the cost of producing and disposing of them without damage to the environment." First, only treatment plants built with Federal money would be covered. Second, the rule applies only to new plants—those industries discharging wastes into existing plants would be exempt. And third, the rule will have an impact only upon those industries that make use of these facilities—industries that divert their waste byproducts elsewhere would presumably not be subject to the rule.

Mr. President, our lakes, rivers, and streams are a public resource of tremendous value. We now realize that we cannot continue to allow the unfettered use of these resources. Like any other scarce resource, we must allocate the privilege to use these waters with great care, and those who do make use of them should expect to pay for the privilege. There is nothing unique about this; government has always allocated scarce public resources among worthy applicants. The

Federal Communications Commission decides between competing applicants for use of the airwaves. The Civil Aeronautics Board allocates air routes among commercial airlines. The Department of Agriculture regulates the rate at which timber may be cut, and charges for each tree felled. Water is one of the few resources which have not, until now, been so protected. We can no longer afford such a luxury.

Mr. President, is it not a bit incongruous that the administration is willing to charge for the use of its waste treatment facilities, but hesitates to impose a charge for the use of our public waterways? Surely our waters are a far more valuable commodity.

The new Interior Department regulations are a step in the right direction, and I applaud the administration for making a start. But it still has a long way to go.

I ask unanimous consent that a Department of the Interior news release on this subject be printed in the RECORD.

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

SECRETARY HICKEL PROPOSES NEW POLLUTION CONTROL RULES IMPLEMENTING PRESIDENT NIXON'S ENVIRONMENT MESSAGE

Secretary of the Interior Walter J. Hickel announced today he is implementing President Nixon's Environmental Message with proposed new water pollution controls—including cost recovery for cleanup of industrial wastes, and comprehensive river basin plans to assure efficient use of Federal funds.

"As the President pointed out, abating some of the pollution in a waterway is a waste of money if new pollution comes in to take its place and old pollution continues," Secretary Hickel said. "We have not done enough to see that the cleanup is coordinated.

"Design and operation of local plants often are inefficient. In some areas, industries are getting a free ride, and the wastes they pour into a municipal system are not treated adequately."

The proposed new rules would apply to new construction grants to help communities build new treatment plants.

In the President's message to Congress for a four-year, $10 billion program to provide modern municipal waste treatment plants in the nation, he proposed to "institute major reforms . . . by administrative action" to ensure that new Federal-aid money would be wisely invested.

Secretray Hickel is proposing new amendments to Title 18 of the Code of Federal Regulations to carry out this mandate for administrative action. Interested persons are being invited to submit comments within 45 days after the proposed new rules are published in the Federal Register.

The proposed new rules would require that:

Comprehensive river basin-wide programs for pollution abatement must be developed, and new treatment works would have to fit in with such programs, as well as with metropolitan and regional plans, to be eligible for Federal aid.

In evaluating new applications, the Commissioner of Interior's Federal Water Pollution Control Administration may demand detailed data on the entire river basin's sources of pollution, volume of discharge from each source, character of effluent, present treatment, water quality effect and other items.

No new Federal grant would be made to any system designed to treat industrial wastes only. If some industrial wastes are to be treated as part of the system's operations, industry would have to pretreat those wastes to ensure they would not interfere with efficient operation of the community system.

A system of "cost recovery" would be required if some industrial wastes are to be treated in a new plant built with federal aid. Such cost recovery by the municipality would assess the industries a share of the operating costs, and costs of amortizing the debt, in proportion to their contributions to the total cost of waste treatment.

State water pollution control agencies must inspect new federally-aided facilities for efficiency and economy at least once each year for the first three years of operation, and periodically thereafter, under standards set by FWPCA.

Design of any new federal-aid treatment plant would have to be approved in advance as economical, efficient, and effective under FWPCA requirements.

Design of any new federal-aid treatment plant would have to be approved in advance as economical, efficient, and effective under FWPCA requirements.

"President Nixon's message stressed that both new legislation and new administrative action would be needed to improve the quality of our waters," Secretary Hickel said. "These proposed new rules are aimed at meeting the specific goals he outlined for administrative action.

"The job ahead will be costly. We want to ensure that the Federal funds invested in the cleanup will be spent effectively and fairly," the Secretary said.

Since the construction grant aid program began in 1956, some $1.5 billion has been awarded to some 9,600 municipalities and sanitary districts to support construction of $6.6 billion in new and expanded facilities to treat wastes.

ENVIRONMENT: RHETORIC OR COMMITMENT

Mr. MONDALE. Mr. President, the present methods of production of electric power contributes to our environmental crisis.

There seem to be detrimental factors in every major method of producing electricity. Nuclear powerplants discharge radioactive materials and cause thermal pollution. Fossil fuel plants foul the air with their smoke. Hydroelectric powerplants alter the natural courses of rivers.

But we must have electricity, and have it in increasingly larger amounts. So we must constantly look for new and better ways to produce it.

One technique being explored is called "magnetohydrodynamics," or MHD. Experiments show that this process may be capable of creating electricity in such a manner that it will not be accompanied by pollution.

Russia and Japan have moved ahead with major investments to develop MHD projects. One Russian pilot plant was estimated to have cost as much as $100 million.

A presidential panel of academic and industrial specialists recommended to the President last summer that we spend at least $2 million annually for MHD research. The new budget, however, proposed only $400,000 for MHD research.

While I am glad that the President was willing to request funds for the project, it is disappointing that a more sizable appropriation was not sought.

We have heard much about the administration's campaign to improve our environment, but we have not seen a willingness to commit any significant resources to combat pollution.

Conversely, the administration was willing to request $314 million for fiscal year 1971 toward the development of the SST—or nearly 800 times as much as MHD research will receive. This appears to be yet another example of our misplaced priorities.

Two articles concerning MHD published recently in the National Observer and the New Republic discussed the possibilities of this method and the shortage of funding to develop it.

Mr. President, I ask unanimous consent that the articles be printed in the RECORD.

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

[From The National Observer, Feb. 9, 1970]

MAGNETOHYDRODYNAMICS—CONCERN OVER POLLUTION LIFTS HOPE FOR NEW POWER GENERATING PLAN

EVERETT, MASS.—Billowing smoke from coal-fired generators enrage air-pollution fighters. Nuclear-powered plants discharging heat into water stir the opposition of ecologists. And even hydroelectric-power enthusiasts seem close to being outflanked by conservationists.

Perhaps there isn't any way to produce electricity so as not to make anybody mad. But to the gratification of certain researchers here, President Nixon last week proposed in his budget that the Federal Government renew efforts to perfect a promising method that theoretically would offend only the most ardent environmental purists.

The technique is called "magnetohydrodynamics," or MHD for short. And for more than a decade, Dr. Arthur R. Kantrowitz, director of Avco Corp's Everett Research Laboratory here, has been extolling its virtues.

How MHD works can best be described by comparing it with more conventional energy-generating units. The latter burn fuel and air to make steam that is expanded in a turbine to produce mechanical power. This power is transmitted through a shaft to turn an electric generator. The actual electric power is produced by the motion of a copper wire armature moving through a magnetic field. A nuclear plant operates in a similar fashion with the reactor replacing the furnace-boiler system.

In MHD operation, hot combustion products of fuel are seeded with potassium and become, in effect, the "armature." These hot gases move at high velocity through a magnetic field where electric power is generated directly. Thus, power is produced by a one-step process as opposed to the more conventional three-step method.

Then, the products of combustion, the sulfur dioxide and the oxides of nitrogen, are not transmitted into the atmosphere as many power plants do now. Instead, these pollutants are retained and processed for commercial use by a chemical process that is an inherent part of the MHD power system.

All of this remains theoretical, of course. The truth is, very high combustion temperatures of the MHD process actually produce more polluting oxides, not fewer, than more conventional generating methods. The hope is that the very abundance of these pollutants would make reclaiming chemicals from them profitable.

Sitting somewhat impatiently in his second-floor office in Avco's spanking new research-laboratory building, Dr. Kantrowitz points out mementos highlighting his work with MHD. One is a small, gray model of wood and wire, a souvenir of the first MHD unit at Avco more than a decade old.

Another is a photograph of a model of an MHD complex designed by Russia, where a 75-megawatt pilot plant is supposed to go into operation this year. "I estimate the cost of that is $50,000,000 to $100,000,000," he says wistfully.

Japan, too, has started a national MHD project. West Germany also has a government-sponsored MHD project with funding being increased at the rate of 25 per cent a year.

For now at least, these foreign developments seem much larger than U.S. efforts so far. President Nixon proposed that in the fiscal year beginning July 1, MHD research contracts be negotiated for $400,000 worth of work. The contracts would be let by the Office of Coal Research (OCR), whose function is to find new ways to increase coal consumption. Large-scale MHD generators probably would use coal for fuel.

Earlier a Presidential panel of academic and industry specialists studied the current status of MHD development and recommended last summer that Mr. Nixon ask Congress to authorize spending of $2,000,000 annually for more research about the technique. The panel's report said such research efforts by the power-generating industry had slackened in recent years perhaps because it was difficult to predict the benefits of large-scale MHD plants.

"Whatever the reasons," the report to the President said, "the panel does not expect MHD work to continue at an appreciable and useful level unless the Government provides the major support. . . ."

Actually about $16,000,000 has been expended to date on MHD research in this country, about half of it coming from utilities led by the American Electric Power Co., Inc., of New York City and Avco and half from the Department of Defense for Air Force work. With these funds, a number of small MHD units were constructed, some in the Boston area and others at the Arnold Engineering Development Center in Tullahoma, Tenn.

—HARRIS SMITH.

[From the New Republic, Jan. 24, 1970]

HOW MUCH, HOW SOON FOR ANTI-POLLUTION?

Anti-pollution is the fashion. What we need to know is how much money the Administration (and the corporations) will invest in it. A little known—and little-funded—Interior Department agency, the Office of Coal Research (OCR), has in its files data on a half dozen or more techniques that promise to eliminate major environmental pollution. But OCR has never got more than $12 million and until recently no one in Interior or the White House has been disposed to ask for more. OCR's technologies remain undeveloped.

Take magnetohydrodynamics. MHD is a way of converting coal and other fossil fuels to electricity almost directly, without intervening boilers, turbines or generators. It is about 50 percent more efficient than conventional coal-fired generating plants—which, in turn, are about 50 percent more efficient than nuclear plants. MHD would significantly reduce the "thermal pollution" created by most present power generation (with the exception of hydroelectric plants, which make up only a small percentage of the total and which sometimes create their own kind of environmental damage). Thermal pollution is the heating of water in streams, lakes or the ocean, often with severe detriment to the balance of life.

MHD also offers great promise for reducing air pollution. Because it is more efficient, it burns less fuel per kilowatt hour than other power-generating techniques; you get less pollution from producing the same amount of power. The fuel for MHD must be "seeded"; that is, an ionizable substance must be added to it to make hot gases electrically conductive. The seed must be removed from the leftover gases, a necessity which becomes a virtue because pollutants can be removed at the same time.

A major source of air pollution—second only to automobiles—is the fuel-burning industrial installations, primarily power plants. Almost without exception, they give off sulfur oxide, and a fine, abrasive ash. Although the sulfur oxides or the particles alone *may* not be harmful to health (there's no conclusive evidence), in combination they are highly destructive to lung tissue, according to HEW's National Center for Air Pollution Control. Sulfur oxides, alone, are harmful to plant life. (The acrid sulfur oxides produce the foul taste in your mouth in highly air polluted areas.) HEW under the Air Pollution Control Act, has set "criteria" for the amounts of these two pollutants that can be emitted from industrial plants. But the criteria, applied by state and local governments, are flexible enough to "meet local needs." HEW's enforcement powers are minimal; the amount of money available here is in inverse proportion to the enormity of the problem.

But the criteria *plus* the techniques now in OCR's files could get the job done, if the technologies can be turned into commercial hardware. Then, instead of depending for clean air on corporate willingness to obey the law (and the willingness of state and local government to enforce it) the corporations might find it in their interest to adopt the new technologies voluntarily, because of their greater efficiencies.

MHD is not the only technique OCR has in mind. A process for dissolving raw coal in anthracene solvent, which would carry off all the potentially polluting materials, is another. The leftover would be almost pure carbon—in a form that could be extruded, ground, melted or handled in numerous other ways. Diesel-electric locomotives and perhaps diesel trucks could burn this clean substance. But once again, the potential would be greatest for power production, especially in congested urban areas such as New York City.

There are several ways, some pioneered by OCR and others by Interior's Bureau of Mines, to convert coal into producer or pipeline gas. If coal can be converted to pure methane—or pure hydrogen or pure carbon monoxide—leaving the pollutants behind in the coal residue, then the gas can be burned with little harm to the environment, in almost any kind of fuel-burning installation and with minimal conversion costs.

The Russians plan to have a part-MHD, part-conventional, plant in commercial operation in 1970; the Japanese are also advancing rapidly in this technology. The President's Office of Science and Technology last June recommended a full-scale MHD research program, as did the Interior Department's own Energy Policy Staff a year earlier. Support for MHD in the scientific community is almost unanimous. Yet, not a penny for MHD was left by the Budget Bureau in OCR's fiscal 1970 budget request. Efforts by Montana Senators Lee Metcalf and Mike Mansfield to get money for MHD into the 1970 Interior appropriations bill failed. The 1971 budget OCR submitted to Interior officials included a miserly $400,000 for MHD, which was then entirely eliminated by a budget officer. The two Montana Senators asked that the money be reinstated. And last month, the Minerals, Materials and Fuels subcommittee of the Senate Interior Committee, chaired by Senator Moss of Utah, held hearings on MHD, at which scientists gave the new technology strong endorsement. So now the Interior Budget, as it goes to the Budget Bureau, will contain "somewhat more than" the $400,000 earlier asked, though less than the $2-million suggested by OST.

Meanwhile, with electrical needs doubling every 10 years, the electric utility industry has indicated through the Edison Electric Institute that it will make some contribution to MHD, at least for research into "peaking" or emergency plants. HEW and the Atomic Energy Commission may also ante up some funds. Meyer Steinberg, a scientist with AEC's Brookhaven National Laboratory, has suggested that giant MHD plants burning coal be built at mine-mouth in thinly populated Western coal states (including Utah and Montana), the power produced to be transmitted to population centers via "superconductors" or other ultramodern "electrical superhighways." It is possible that AEC is motivated by its awareness that nuclear plants are a serious contributor to environmental damage through thermal pollution and difficult-to-dispose-of radioactive wastes. Or the well-funded AEC ($2 billion since World War II to develop nuclear power) may see MHD as a technique applicable to nuclear fuels. AEC's entry could make MHD go, if the President gets solidly behind environmental quality.

Of course, technology alone won't keep our environment clean. Scientists are coming to regard the formerly innocuous carbon dioxide as a pollutant, at least in urban "microenvironments." In these areas, higher levels of CO_2 will soon begin to cause rotting of the mortar in urban buildings. Burning fossil fuel *always* creates carbon dioxide, and the final solution to the CO_2 problem will have to be reduced burning of fuels. Moving industrial plants into thinly populated areas would help. But what would help more is fewer people and a lower per capita rate of consumption, including fewer automobiles or prohibitively high tolls for their admission into urban areas.

—RICHARD H. GILLULY.

NOMINATION OF JUDGE CARSWELL

Mr. DOLE. Mr. President, the opposition to Judge Carswell has been very vocal—if misleading—in attempting to convince the Senate that the experts and the professors are on their side.

The truth is, the people on their side are largely those so-called experts and other who view the Constitution as a document to use to instigate social reform, not those who view it as the keystone of our Republic.

It may surprise many of Judge Carswell's opponents that the White House has received a number of letters and wires supporting the constitutional arguments in the President's letter to the Senator from Ohio (Mr. SAXBE) regarding the appointment of Judge G. Harrold Carswell to be an Associate Justice of the Supreme Court.

President Nixon contended that his constitutional duty could be frustrated if the Senate should withhold consent for other than strong or special reasons. The President said that such a case had not been made against Judge Carswell.

Messages of support for the President's position have come from James William Moore, Sterling professor of law, Yale University; Erwin A. Elias, professor of law, Texas Tech University; Michael J. Vaughn, assistant professor of law, Baylor University; Edward C. Banfield, professor of government, Harvard University; Howard Penniman, professor of government, Georgetown University; and James M. Brown and Edward A. Potts, professors of law, George Washington University.

I ask unanimous consent that the messages be printed in the RECORD.

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

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I was pleased with your statement to Senator Saxbe that your choice of Judge Carswell should not be frustrated because of philosophical or ideological differences concerning your nominee, especially where his confirmation would aid in restoring a balance to the Supreme Court; which I believe the electorate approved. This position still leaves the Senate with large and proper powers to reject a nominee for lack of integrity and for other reasons stated by Hamilton in the Federalist, such as favoritism in the President, personal attachment and the like. None of these reasons stated by Hamilton is applicable to Judge Carswell. I am pleased that you continue in your steadfast support of Judge Carswell and I trust that your sound constitutional position will in the end be vindicated by the good sense and conscience of the Senate. I have the honor to remain your obedient supporter.

JAMES WILLIAM MOORE,
Professor of Law, Yale University, New Haven, Conn.

SILVER SPRING, MD.,
April 3, 1970.

The PRESIDENT,
The White House:

Your letter of Presidential-senatorial roles and appointments is correct. Washington Post misuses Federalist 76 by ignoring paragraph preceding the one quoted. Senate not intended to substitute its choice for those of President as seems to be goal of opponents of Carswell confirmation.

HOWARD PENNIMAN,
Professor of Government, Georgetown University.

The PRESIDENT,
The White House,
Washington D.C.:

We the undersigned respectfully take this means to indicate our support for the nomination of Judge Carswell and our concurrence with the deep concern expressed by you in your letter of March 31, 1970 to Senator Saxbe.

ERWIN A. ELIAS,
Professor of Law, Texas Tech University, Lubbock, Tex.
MICHAEL J. VAUGHN,
Assistant Professor of Law, Baylor University, Waco, Tex.

President NIXON,
The White House,
Washington D.C.:

Every Senate has endeavored to weaken the powers of the Presidency and every President to preserve and strengthen them. Your present struggle is in this great tradition and those who want strong effective national government must pray for your success.

EDWARD C. BANFIELD,
Professor of Government, Harvard University.

APRIL 3, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In our judgment your letter to Senator Saxbe accurately reflects the intent of the Constitution with respect to the Presidential power of appointment to the Supreme Court with the advice and consent of the Senate. The Washington Post editorial of April 2, 1970, quoting the Federalist Paper No. 76 neglected to cite the sentence immediately preceding the one quoted, which in part reads "...it is not likely that their sanction (the Senate) would often be refused, where there were not *special and strong* reasons for the refusal." (Emphasis added.) This is precisely what we read you letter to say.

In the Federalist No. 76 Hamilton discusses three possible methods for appointment of ambassadors, public ministers and judges of the Supreme Court. He describes the rationale by which the compromise process was reached establishing the method prescribed by the Constitution under which the President nominates, and, with the advice and consent of the Senate, appoints. In discussing the selection by the President, Hamilton says, "Premising this, I proceed to lay it down as a rule, that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices, than a body of men of equal or perhaps even of superior discernment."

He further states, "He will have FEWER personal attachments to gratify, than a body of men who may each be supposed to have an equal number; and will be so much the less liable to be misled by the sentiments of friendship and of affection. A single well-directed an, by a single understanding, cannot be districted and warped by that diversity of views, feelings, and interests, which frequently distract and warp the resolutions of a collective body." Having argued the superior wisdom of one man making the appointment, Hamilton goes on to justify the compromise by which the nomination must be approved by the Senate and states, "In the act of nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing." Hamilton further observed that, "It is also not very probable that his nomination would often be overruled." This expectation has been borne out by the fact that the Senate has withheld its consent, to nominees to the Supreme Court, in only three instances in this century.

The Senate has the positive duty to determine whether the nominee's character befits the office. The Senate should, of course, make this judgment with respect to Judge Carswell. We believe, however, that you have correctly stated the traditional constitutional relationships of the President and the Congress, and that the consent of the Senate should be refused only when, in the words of Hamilton, there are "special and strong reasons for the refusal." The Senate should not attempt to substitute its *subjective* judgment as to this or any other nomination.

Very respectfully yours,

JAMES M. BROWN,
Professor of Law.
EDWARD A. POTTS,
Professor of Law and Associate Dean, the National Law Center, the George Washington University.

MORRIS ABRAM WARNS OF DETRIMENTAL EFFECTS OF U.S. INACTION IN HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, three crucial human rights treaties now lie before the Senate of the United States—the Convention on the Political Rights of Women, the Convention on Forced Labor, and the Convention on the Prevention and Punishment of the Crime of Genocide.

These treaties reaffirm the principles on which this country was founded and which are guaranteed in the Declaration of Independence and the Constitution. Their ratification is essential if this country is to actively participate in developing an international law of human rights.

It is important at this time that we ask ourselves how the U.S. failure to ratify these treaties has affected this vital effort. The answer is crystal clear: The inactivity of the United States in this area has been a severe handicap to progress in securing international protection of human rights.

Mr. Morris B. Abram, a distinguished New York lawyer and former president of Brandeis University, eloquently brought forth this crucial point in testimony before the Senate Foreign Relations Committee on September 13, 1967. Mr. Abram's extensive experience as the U.S. representative to the UN Commission on Human Rights gives his excellent testimony additional force.

It was clear 2½ years ago that Senate ratification of these treaties was a matter of the utmost importance. Mr. Abram's compelling remarks are therefore even more significant today, in April 1970, in view of the absence of Senate action in the vital field of human rights since September of 1967.

Mr. President, I ask unanimous consent that excerpts from the testimony of Mr. Morris B. Abram before the Committee on Foreign Relations be printed in the RECORD.

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

EXCERPTS FROM THE TESTIMONY OF MORRIS B. ABRAM

Mr. Chairman, the question before this Committee goes beyond the three conventions under consideration. This question is whether our country is to operate with a conception of the treaty power that is suitable for the realities of the rapidly shrinking world we inhabit. It is whether our policies are to be responsive to the objective facts of the increasing interdependence of nations, and the relationship between the conditions of freedom, economic and social progress, and international peace and security. It is whether our policies will reflect the recurrently demonstrated truth that the effects of the suppression of liberty, of race and sex discrimination, of poverty and illiteracy, tend to overflow borders and affect adversely other countries and the world-at-large.

The question is also whether the ideals which inspired the authors of our Declaration of Independence and our Constitution, that human rights and freedoms are the rightful heritage not only of Americans but of all men, is valid for us today; whether the American tradition of espousing the cause of the oppressed, or promoting the fundamental values of human rights, not only at home but abroad, is still an essential element of our national policy. It is whether we still adhere to, or whether we intend to renege on, the commitment we made when we joined the United Nations, to cooperate with other nations "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion," and in solving international economic and social problems.

Mr. Chairman, if we did not expect to carry out this commitment seriously, why did we ratify the UN Charter? If we did not intend to join in measures for implementing this undertaking, of which the most crucial is the adoption and the ratification of conventions, why did we endorse the inclusion in the Charter of this human rights purpose? Do we want the contemporary world-wide effort to extend the rule of law in the field of human rights to succeed or, by standing aloof from it, are we prepared to be a witness to its demise—as our failure to join the League of Nations contributed to the demise of that noble effort. For it is a fact of today's reality that when the United States, the world's strongest power and leading democracy, stands aloof from an inter-

national undertaking, that undertaking has little chance to succeed.

* * * * *

I contend, if as I believe to be the case, our participation in the human rights convention system will make even a modest contribtuion to bringing about a more decent world—by encouraging other countries to accept the standards of the conventions as binding obligations, by generating forces within these countries in support of their observance, by influencing the conduct even of nations which do not adhere to the conventions (for people tend to demand rights which others enjoy)—our failure to ratify cannot be justified. To prejudice our national image—by allowing ourselves to be included among only eight Members of the 122 UN Member States which have failed to ratify any of the three conventions makes little sense. To be included—we who lay claim to the position of leadership of the Free World—among states which have failed to participate in the principal means available to the world for developing international standards in the field of human rights, I submit, is a national embarrassment and indignity.

(Mr. Chairman, international cooperation for human rights—meaning primarily, treaty agreements in this field—is no longer an academic question; it is a practical necessity. I urge that, in pursuance of our national interest, our government resume the position of world leadership in the human rights field we occupied in the early years of the United Nations) and to this end, that the Foreign Relations Committee recommend to the Senate to ratify all three conventions now under consideration.

Thank you.

STRICT CONSTRUCTIONISM

Mr. ERVIN. Mr. President, the Wall Street Journal of March 19, 1970, carried an article by Arlen J. Large entitled "'Strict Constructionism'—With a Wink."

I ask unanimous consent that the article be printed in the RECORD.

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

[From the Wall Street Journal, Mar. 19, 1970]

"STRICT CONSTRUCTIONISM"—WITH A WINK

(By Arlen J. Large)

Senator HART. What do you understand what the President means when he said he is looking for and thinks he has found in you a strict constructionist?

Judge CARSWELL. I don't have for you a pat answer, because I don't think it is pat answerable.

Because it comes up these days in connection with Supreme Court appointments, there's keen interest in what is meant by the term "strict constructionist." Everyone generally understands it means somebody who construes the words of the Constitution more or less literally, and doesn't make up a lot of far-out interpretations.

But, in practice, just how does that work out?

A CYNICAL FINDING

Because the Executive and Legislative branches of Government also must act within the Constitution, an examination of their manner of construing that document might give a clue to the meaning of "strict construction." There are strong grounds for a finding that's lamentably cynical:

If you want to do something badly enough, you construe it as Constitutional, even if you must construct an argument that is strictly far-out.

You can buy Louisiana from Napoleon, fight undeclared Asian wars, bust down a dope peddler's door and pass a national law letting teen-agers vote. The crucial question is whether such activities are desirable on their merits; if deemed so, you then assemble yourself a Constitutional rationale.

As Congress currently explores the farther reaches of its Constitutional powers to regulate voting, those powers are being construed very broadly indeed.

The Constitution itself is invitingly murky. Would-be voters for U.S. Senators and Representatives must have "the qualifications requisite for Electors of the most numerous branch of the state legislatures"—which presumably fix those qualifications.

Such words underlie the traditional view that the states—not the Federal Congress—are in charge of voting. Because of that tradition, when it was deemed desirable to forbid the states to deny the vote to Negroes, to women and to poll-tax non-payers, words had to be added to the Constitution.

But one of these Constitutional changes offered Congress a loophole that it only recently had begun to exploit. The 100-year-old Fifteenth Amendment, on Negro voting, says, "Congress shall have the power to enforce this article by appropriate legislation." In 1965, lawmakers relied on that in abolishing literacy tests and other state-decreed voting barriers in the South. The Voting Rights Act contained another provision allowing Spanish-speaking Puerto Ricans in New York to escape that state's literacy test. The Constitutional basis was the Fourteenth Amendment's requirement that states give each citizen "equal protection of the laws."

The Supreme Court ruled in 1966 that Congress indeed had such power to override a state's election law. It was one of several post-1965 court decisions opening new vistas of Federal authority over voting, and the Nixon Administration, which claims to cherish "strict construction," is cheering Congress on.

BANNING LITERACY TESTS

Both a sense of equity and the political imperatives of wooing Southerners led to the President's proposal for a statute outlawing literacy tests in the 12 non-South states that still have them, even if there's no allegation of deliberate discrimination against Negro voters. Both the House and Senate have agreed to a nationwide ban on literacy tests in the voting rights bill now in the final stages of enactment.

The Administration also cites Warren Court rulings as the basis for sweeping away state requirements that bar new residents from voting in Presidential elections. This also has been enthusiastically, received in Congress. Sen. Barry Goldwater, who last year thought a full-dress Constitutional amendment would be required, swung around to a simple statutory remedy mainly because he decided the other method would take too long.

The Arizona Republican told colleagues: "Once the policy decision is made to cure the problem by means of a statute, rather than an amendment to the Constitution, I have no difficulty in finding that it is well within the authority of Congress to pass such a statute." Among other things, Sen. Goldwater cites the power of Congress "to secure the rights inherent in national citizenship."

While agreeing that Congress can pass laws banning state literacy and residence requirements, Attorney General John Mitchell's lawyers construe things more strictly when it comes to lowering the voting age. That, the Administration insists, must be done by Constitutional amendment. But such unlikely allies as the conservative Sen. Goldwater and the liberal Edward Kennedy of Massachusetts contend that if Congress can act on literacy and residence it can act on age, too. A determined majority of the Senate has agreed; the House has yet to decide.

Arguments for free-and-easy lawmaking have superficial appeal. If it's unjust to keep illiterates from voting, the state tests should be junked and a Federal law is the fastest way. Nobody seriously argues that a man who moves from Iowa to Florida becomes unqualified to judge candidates for the national office of President; there's no defense for archaic state residence laws that deny U.S. citizens a Presidential ballot, and a Congressional remedy is easily at hand. Only a handful in Congress now is arguing openly that 18-year-olds shouldn't vote. If the issue has been settled on its merits, why fool with the tedium of a Constitutional amendment?

The motives, moreover, of the self-proclaimed strict constructionists are open to question. Most of them are from the South, where for years blatant denial of the vote to blacks was shielded behind the high Constitutional doctrine of state control of voting. Southern respect for every jot and tittle of the Constitution conveniently overlooked Section 2 of the Fourteenth Amendment, which provides that states denying the vote to their citizens "shall" lose a proportional number of U.S. House seats. But the construction Congress itself put on this requirement was strictly negative; the provision was never invoked, simply because the lawmakers didn't want to, and the Constitution thus has been amended by deliberate oversight.

And that, of course, is the danger of Constitutional corner-cutting. A Congress determined to pass do-good laws on questionable Constitutional authority is likewise free to enact do-bad laws; definitions about which is which will depend on who has more votes. Presidents who are free to pick and choose among their Constitutional powers are going to wink at the right of habeas corpus (Lincoln), put citizens of a particular ancestry in detention camps (FDR), send soldiers to an undeclared war in Korea (Truman), or in Vietnam (Eisenhower, Kennedy, Johnson, Nixon).

SENATOR ERVIN'S WARNING

"When the Constitution of the United States is nullified by those in authority because of their impatience or because of their zeal to do what they consider to be advisable . . . liberty in America has no chance to survive; because then we will have a government of men and not a government of laws."

So warned Sam Ervin during the Senate's voting-law debate. The North Carolina Democrat is among the more consistent "strict constructionists." While following the traditional Dixie gospel about state control of voting, he raises the same prickly Constitutional objections to some things ardently wanted by fellow conservatives: Official school prayers, pre-trial preventive detention of accused criminals, "no-knock" authority for narcotics agents to raid suspected drug peddlers, crackdowns on GI war dissenters.

In disputes over such things as no-knock authority, it comes down to which strict constructionist you believe—the Attorney General or Sen. Ervin. At the moment it seems more Senators and Representatives believe Mr. Mitchell, and no-knock authority probably will become Federal law. Then it will be up to the Supreme Court, should a test case arise, to decide whether an official break-in by Federal narks fits the definition of unreasonable searches and seizures forbidden by the Constitution.

If there are any would-be "strict constructionists" on the Court then, they'd best look within themselves for guidance on what that label really means. Their co-equal brethren downtown and on Capitol Hill don't seem to know, either.

SPACE TECHNOLOGY AIDS FIGHT AGAINST POLLUTION

Mr. YARBOROUGH. Mr. President, an article published recently in the Houston Chronicle contains an interesting report of how space technology is helping in the fight against pollution. Infrared and microwave sensing techniques developed by NASA have recently been used by a newly formed Houston firm to detect oil

pollution flowing from the leaking well in the Gulf of Mexico. These same techniques have been used to trace the flow of hot water—thermal pollution—into Galveston Bay. With this assist from space technology, it will be possible to chart the flow of many pollutants through bodies of water. Hopefully, the knowledge we can gain from this type of work can teach us how better to stop the pollution of the waters on the earth's surface.

Mr. President, I ask unanimous consent that the article entitled "Houston Firm Uses Space Skills To Check on Pollution," published in the Houston Chronicle of March 22, 1970, be printed in the RECORD.

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

HOUSTON FIRM USES SPACE SKILLS TO CHECK ON POLLUTION

(By Arthur Hill)

A new Houston firm, believed to be the first of its kind in the nation, has used sensors developed through space program technology to chart pollution in Galveston Bay and the Gulf of Mexico.

The firm has cameras, film, electronic and computerized equipment that heretofore has been used only experimentally by NASA and a few academic institutions.

The new company is Remote Sensing, Inc., with offices at Hobby Airport.

Its president, Bobby D. Hile, is certain that airplane-borne sensors can help fight pollution, but he expects it will be a struggle to convince others of that viewpoint.

As a demonstration, RSI recently mapped the extent of the Chevron Oil Co. oil spill south of New Orleans. Several flights have also been made over the Houston Ship Channel and Galveston Bay.

Hile has pictures showing ships releasing large quantities of oil into the Ship Channel and industries dumping chemical wastes into that waterway. Other sensors show the extent to which heated water is flowing into the bay.

One of the firm's instruments is a 500-pound camera that can peer into the open hold of a ship from an altitude of 6000 feet.

The pollution flights were not paid for by anyone concerned, so RSI was impartial, Hile said.

"We did it simply to check out our instruments," he said.

RSI uses equipment that "sees" the ground at wave lengths beyond the range of the human eye with instruments, for example, that work in the infrared and microwave regions of the spectrum.

Some pollution can be seen from above by the eye—and by standard film, for that matter—but reflection from the Sun obscures most of it, Hile said.

In the Chevron oil spill, it appeared to the unaided eye that a line of barges was holding back much of the oil, but the infrared sensors showed a vast quantity flowing past the barges, escaping the special oil-skimming booms.

Hile estimated that RSI spent over $10,000 in four flights over the spill, two on March 11 and two on March 13, at both low and high altitudes.

In the Chevron spill, Hile said, RSI sensors found that the oil wouldn't penetrate the rip tide, an area of heavy sedimentation on the delta. The reason is still unknown, Hile said.

"What we are trying to tell the people right now is that if they are really interested in the leakage and the things that really occur, there should be some monitoring situation set up to do this.

"If it goes out to sea, they are in good shape. If it happens to head toward land, you have got to start cleaning up. If you don't monitor where that stuff is, how are you going to know where to clean it up, or whose it is?" Hile asked.

The same applies to the Ship Channel and Galveston Bay, he said. Infrared is especially good for showing the extent of hot water discharge, he added.

Five of the 15 employes at RSI, including Hile, are what Hile calls "NASA dropouts." The Manned Spacecraft Center pioneered the development of remote sensing techniques.

The firm has three professional pilots and two planes, a fan-jet Falcon and a twin-engined Cessna 337, both crammed with equipment.

Hile called the evidence of pollution he found in the Ship Channel and the bay "disgusting."

"And if you live where I do, down at League City, it's enough to make you give up drinking water if you study this long enough."

RSI's first assignment, however, has nothing to do with pollution.

The Kansas State Highway Department wants them to look for old mine shafts, so that rights-of way can be plotted away from dangerous ground.

Hile believes the temperature in the shafts will be quite a bit warmer at this time of the year than the surrounding terrain, which should make it easy for the sensors to locate the hidden tunnels.

TRIBUTE TO SECRETARY OF TRANSPORTATION VOLPE

Mr. ALLOTT. Mr. President, Nation's Business for April 1970, contains an excellent article entitled "John Volpe's Drive To Keep America Moving." The article serves as a fine tribute to the tireless efforts of Secretary Volpe, who is certainly one of the most enthusiastic and energetic Cabinet members to serve in Washington in many years.

I believe that the Secretary in the course of the article makes many valid points. The Nation's Business story also paints a picture of Mr. Volpe as a principled man with strong political loyalties.

As a further tribute to the work he is doing, I ask unanimous consent that the article be printed in the RECORD.

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

JOHN VOLPE'S DRIVE TO KEEP AMERICA MOVING

The three-year-old Department of Transportation has been likened to the brash new kid on the block: highly visible and easy to dislike.

"I'll admit we're highly visible," says John A. Volpe, the second man to serve as Secretary of Transportation, "and I'll concede that transportation has not kept up with the times."

A what-are-you-going-to-do-about-it chorus comes from the choleric commuter caught in rush hour traffic, the frustrated businessman bogged down at an overwhelmed airport, the ghetto worker trying to get to a suburban job via an outmoded city transit system, and the nostalgic soul who yearns for the heydey of the passenger train.

"Intermodal transportation, that's the answer," snaps the feisty Mr. Volpe. "Modes of transportation that are interdependent. A total balanced transportation system. You can't depend on the automobile alone anymore. You've got to get rid of the imbalance."

Many people have their own pet answers to the transportation question, so selling this idea of a balanced system is harder than it sounds.

To sell it, Mr. Volpe jets continually over the country, pushing this campaign as hard as he did the ones that three times put him in the Governor's chair in Massachusetts; showing the same drive that took him from hod carrier to owner of a huge construction company.

"You've got to make the people realize what's at stake," he says. "You've got to get them behind you."

At stake for mobile America is the continuation of that happy circumstance of getting where it wants to go, when it wants to.

"Transportation has to receive from the people the same commitment they give to education," Mr. Volpe exclaims. "You're really talking about people—people who have to be able to move safely, to get to work, to produce and sell."

And he believes that after a year in office he has a head start now on whipping problems whose scope is shown by the torrent of statistics he quotes.

In 1969, the restless American drove more than a trillion miles, in 107.4 million motor vehicles, over the one linear mile of pavement his country now has for every square mile of land. And he flew 66 million more seat miles per day on commercial air carriers and 4,000 more hours each day in general aviation than he did the year before. Not to mention the mileage he piled up on buses, trains and shipping of all description, all now covered in part by Transportation agencies.

THE GOOD WITH THE BAD

What particularly makes Secretary Volpe optimistic is the progress in Congress on two bills he considers essential. One, now in the final passage stage, is a 10-year, $15 billion plan to improve the nation's airports and air traffic systems; the other, a 12-year, $10 billion program to aid urban public transit, has won Senate approval.

"The President was making a trip on Air Force One when I called to tell him the House had passed the airport bill, 337–6," Mr. Volpe chortles. "He thought he had a bad connection. He couldn't believe the size of the vote."

If Mr. Volpe has had his moments of exhilaration so far, he's had his bad times, too. Such as the battle of the Everglades, or airplanes vs. alligators.

"I don't think I have spent as much time on any other single project," ruefully admits the Secretary about this squabble between conservationists and government officials over location of a new international airport for Miami.

"Alligators 26–0," is the way Washington wags put the outcome.

"Now, look," Mr. Volpe exclaims. "The President was dead serious when he talked about protecting our environment. And so am I. I can tell any city or state official looking for funds from us that no road or airport or transit system is going to be built that doesn't take the environment into consideration.

"I'm not one of those who believe we've raped the country by building roads. That just isn't so. But we can pay more attention to trying to save this grove of trees, or this parkland. Maybe we weren't as careful before. But I hate to think of the paralysis that would have faced this country without the interstate highway system."

The 43,000-mile interstate grid, now nearing completion, is a prime example for Mr. Volpe of the worth of transportation—and of planning. He was involved personally in the interstate's planning as first federal highway administrator, under President Eisenhower, who okayed the project.

"That was the biggest public works project in world history," says Mr. Volpe. "And I don't think any of us ever realized just what it was going to mean to the economics of this country. I mean the way industry moved out to expand because now it had the

roads to move its goods from the new, bigger sites."

MAN ON THE MOVE

Secretary of Transportation seems a natural title for Mr. Volpe, who says he turned down the first post President Nixon offered him (he won't say what it was). He's a man on the move, whether from one luncheon to another (he usually arrives just as coffee is served; his record is five luncheons in a day) or from one goal to another.

The 61-year-old son of an Italian immigrant, Mr. Volpe is a self-made man who drives himself and is impatient with nondrivers.

He can kid himself, as he does about his height ("the reason I'm short is because I started as a hod carrier and that hod was heavy") but his visible public image is that of intense seriousness.

Mr. Volpe didn't exactly start at the bottom in seeking elective office. His first try—he won—was for the Governorship. He had made a huge success out of a construction company he started during the Depression, and had served as the appointed public works commissioner of Massachusetts.

His three terms as Governor were not successive. He was defeated once.

"I got beaten because I lost one vote out of every precinct," he explains. "I should have worked harder. I guess I overlooked some details."

To make sure he doesn't overlook any details in his current job, Mr. Volpe lugs as many as five briefcases home to Washington's "White House Annex," the Watergate Apartments, where many in the Nixon Administration live. (It helps, he says, that he and Mrs. Volpe prefer a quiet home life to the big social bashes of the capital.)

And when he's on a trip, which is three or four times a month, he takes with him big "briefing books" about every city, every state into which he's going—and what his Department is doing there.

"The briefing books are the bible," explains an aide. "He absorbs facts. And he doesn't want to be wrong."

KEEPING HIMSELF GOING

Secretary Volpe will bone up on the smallest detail, frequently sipping his favorite energy-builder, hot tea and honey. He's a weight watcher, who eats lightly and considers a graham cracker a big snack. He's also a physical health bug.

"Every minute I give to exercise I figure gives me that much more time to devote to my job." He goes at it with a vengeance: Up at 6:30 a.m. and onto his special exercise bicycle, then maybe a bit of shadow boxing.

One thing he likes about the new building in Southwest Washington his Department is moving into is that it is big enough for him to lay out a jogging track on the roof.

As does any executive who has a pell-mell pace, the Secretary has his own recipe for relaxation: "I take a hot whirlpool bath at night and I sleep like a baby. I take a cold whirlpool bath in the morning and I'm ready to roll."

To make sure he's ready to roll on the road as well as at home, he carries with him everywhere a 28-pound whirlpool unit that attaches to any hotel or motel tub.

Mr. Volpe feels his trips across the country can make a major contribution to the transportation success story he hopes will be written during the Nixon Administration.

"You know the federal government only assists cities and states," he says. "The local units of government have to contribute their share and they have to initiate the requests for help in financing the programs they want. What I hope to do is make people realize they have to think 'total transportation,' not just an immediate road or airport or some new buses."

He adds pointedly: "Any city of over a half-million in this country has a transportation problem. It had better look ahead."

CAN'T WIN 'EM ALL

A tireless campaigner for President Nixon, Mr. Volpe feels the President has shown a deep appreciation for the role of transportation.

"He'll listen to any argument you make," the Secretary says. He won't deny that he's made his share of arguments.

"Of course," he says of one he lost, "I thought I had a really tight budget when I submitted it, but the President came back and told me to take out another $125 million."

For fiscal 1971, Transportation has asked for new spending authority of $11.2 billion, a 42 percent increase over fiscal 1970, including $2.9 billion to finance expanded grants for urban transportation. It doesn't expect to spend this much in the 12 months starting next July, however. Actual outlays are expected to be $7 billion to finance programs as diverse as building a new ice cutter for the Coast Guard and highway beautification. created three years ago by President Johnson, pulling together a number of independent agencies and transferring some outfits involved with transportation from other Cabinet departments.

One of these was the Coast Guard, moved over from Treasury. That the newest Cabinet office suddenly had Coast Guard air transportation available for official trips is still a tender spot at old line departments. Their Secretaries (excluding Defense) travel mostly by commercial plane.

"I think I've got everybody in the Department thinking total transportation now," says the Secretary. "Not just aviation or highways or railroads." (His Department overseas the Alaskan railway and two other federally owned railroads.)

Much of the Secretary's first year was spent formulating what could be called a transportation policy.

"I think it was easier for me than it would have been for anyone else," he says without egotism. "After all, I had the background. I was the first federal highway administrator and was public works commissioner for Massachusetts. As Governor, I dealt with the problems of aviation and shipping, too."

SAFETY FIRST

Mr. Volpe says his first priority on taking office was "safety—air safety, automobile safety.

"I think I soon discovered that urban transportation was right up there, but safety was first."

His Department oversees the Motor Vehicle Safety Act and has decreed that a long list of items such as safety shoulder straps and head rests must be standard on new automobiles.

"Were going to save 10,000 lives a year when the air bag and collapsible bumper are perfected," he says.

The air bag is an experimental device that would activate huge rubber balloons on impact, so that the driver would be cushioned. Mr. Volpe recently announced that the auto industry will be required to begin using it in 1972.

The collapsible bumper is another impact device designed to cut down injuries or deaths.

"We're going to have to reduce the number of people killed every year—55,000," Mr. Volpe says.

Not all safety ideas advanced by his Department have met with wholehearted acclaim and some have been ridiculed.

"You have to do what you think is right," he says.

And that's why he feels cities must look to rapid transit, despite the voter unhappiness caused by proposals for bond issues to raise matching local money.

HE HAD RATHER SWITCH?

"When you talk about rapid transit," Mr. Volpe says, "it doesn't mean rail exclusively. Maybe express buses will do the job—special bus lanes up freeway median strips. If a guy driving bumper to bumper at 10 miles an hour sees a bus going by at 60, maybe he'll figure it's smarter to switch.

"I've learned this—as a businessman, a Governor and now as a Cabinet officer. A city which doesn't develop a means to move large numbers of people effectively and efficiently from where they are to where they want to go is a city of obsolescence.

"I told the National Automobile Dealers Association they didn't have to worry about selling cars if their cities got rapid transit. If some of these cities don't look ahead, the people won't be able to get to the showrooms to buy cars, anyway."

As Mr. Volpe, comfortable in a rumpled red sweater and busy editing speeches with a big, felt-tipped pen, flies around the country in a Coast Guard jet, he is conscious of area-by-area differences of opinion on transportation needs.

For many parts of the country, motor transport is the only mode.

In metropolitan areas, there is agonizing over mass transportation (the Secretary notes glumly that 235 local transit systems went out of business in the last few years).

There is tremendous competition for funds—for roads, airports, buses, high speed transit on rails.

Secretary Volpe sees as the great hope for rapid mass transit the tracked air cushion vehicle, capable of any necessary speed up to as much as 250 miles an hour.

"It's coming, and it will be a success," he predicts. To back up the theory, the Department is going to build a 20-mile test track at Pueblo, Colo.

Rapid transit also is good medicine for social ills, the Secretary thinks.

"If you can move people from the inner city to the outlying areas where the jobs are, you can't help but solve some of these social problems. And if you can move people from the suburbs into the city, you can solve some of the problems of the city decaying as a center of commerce."

There is nothing like a bustling downtown to get Mr. Volpe's adrenaline pumping. He'll mentally size up the problems any building under construction will give the builder. And the costs.

Watching a tower go up in Atlanta, he ruefully remarked: "And just think he [the builder] doesn't have to figure in snow stoppages."

PAST, PRESENT, AND FUTURE

Mr. Volpe sold all his interest in his construction business to a brother on being confirmed to the Cabinet. Several of his projects were under way in Washington when he walked into the room where a Senate committee was considering his nomination. The signs all read, "John A. Volpe Construction Co."

By the time he walked out, his workmen had done a rush paint job on their own. The signs all said; "Volpe Construction Co."

Mr. Volpe has been touted as a possible Senate race opponent against Democrat Edward M. Kennedy. He scoffs at this suggestion.

"Sure, I've heard those stories. But I am not a candidate for any elective office. Period."

This hasn't, however, dimmed his enthusiasm for Republican politics. He's always willing to duck in on a G.O.P. meeting wherever and whenever he can. One reason is that he genuinely enjoys political meetings, especially the mingling with people.

"I can go like 60 for a week or 10 days, but then I have to have a long weekend," he explains.

When he gets a chance, he likes to lie in the sun on a beach and every once in a

while get in a hand of bridge. A devout Catholic, he goes to mass every day, wherever he is.

As every Administration official does, Mr. Volpe knows there is a time limit on his Washington years. He keeps it in mind.

"We've got to double our transportation capacity in the next 20 years," he says. "Think of that. In 20 years we've got to match all of history. When I get through, I'd like to feel I have developed a balanced transportation system. America is going to grow, we know that. But the way it grows is what's important. And transportation will determine in a big way where we are at the end of the decade."

SALVATION: IT IS POSSIBLE

Mr. MONDALE. Mr. President, one of the most interesting articles that I have read recently on the environmental crisis is one written by Barry Commoner in the April 1970 issue of the Progressive.

The entire issue, entitled the "Crisis of Survival," is devoted to the subject of the environment and is worth reading.

The article by Commoner, who has been referred to as the "Paul Revere of Ecology," is especially incisive and thoughtful. Commoner makes a strong case for the fact that our environmental problems have been the direct result of our use of technology as the basis of increased production and high financial return.

Commoner states that "the continued success of our economic system and the stability of the political framework which supports it" depends on our ability to take into account the hidden social costs of new technologies as well as simple profit and loss considerations.

There is a very real danger that if we allow unrestrained technological change for a competitive financial return at the expense of the integrity of the natural ecological system, we will become hooked on items such as inorganic fertilizers and synthetic insecticides.

As serious as thing are, Commoner sees the seventies as a period of grace:

A decade which must be used for a vast pilot program to guide the coming reconstruction of the nation's system of productivity.

Mr. President, I commend the article to the attention of the Senate and 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:

SALVATION: IT'S POSSIBLE

(By Barry Commoner)

(NOTE.—Barry Commoner is director of the Center for the Biology of Natural Systems at Washington University. He wrote "Science and Survival," available in Viking Compass paperback.)

With startling suddenness environmental pollution has jumped to the top of the agenda of public concern. A short time ago the condition of the environment was largely a subject for discussion among scientists; although some of us did venture from our laboratories to alert the public and legislators to the problem, until recently the response was one of polite attention, but little demand for remedial action. Now, suddenly, things are different: Environmental pollution is a major public concern.

The immediate reasons for this concern are not difficult to detect, for they assail our senses every day: Our eyes smart with smog; our ears throb with the noise of automobiles, aircraft, and construction tools; we are assailed by the odors of polluted waters and the sight of mounting heaps of rubbish.

Less apparent than the *fact* of pollution is what can be done about it. The problems are enormous in size: Cities are running out of places to dump garbage, and a lake as large as Erie has been nearly totally polluted. The problems are bewildering in their complexity: If we expand sewage treatment facilities, the effluent nourishes aquatic plants and we only intensify the pollution caused by rotting masses of algae; if we incinerate garbage, we intensify air pollution; if we attempt to control smog by means of exhaust devices which reduce waste fuel emission, we worsen the pollution caused by nitrogen oxides.

The degradation of the environment in which we live has become a pervasive, intractable, discouraging problem. It clashes noisomely with the magnificent progress of the age, with the marvelous competence of our new machines, with the rising productivity of our factories and our farms, with the new inventions that have revolutionized communications and management.

Why has a society which is so enriched by the progress of technology now become so impoverished in the quality of the life which that technology supports? What are the causes of this dismaying phenomenon? What lessons can be learned from the environmental crisis that might help us survive it?

Consider this thesis, which, I believe, may provide some useful insights into these problems:

Environmental pollution is not to be regarded as an unfortunate, but incidental, by-product of the growth of population, the intensification of production, or of technological progress. It is, rather, an intrinsic feature of the very technology which we have developed to enhance productivity.

Our technology is enormously successful in producing material goods, but too often is disastrously incompatible with the natural environmental systems that support not only human life, but technology itself. Moreover, these technologies are now so massively embedded in our system of industrial and agricultural production that any effort to make them conform to the demands of the environment will involve serious economic dislocations. If, as I believe, pollution is a sign of major incompatabilities between our system of productivity and the environmental system that supports it, then, if we are to survive, it is the productivity system that must yield first place to environmental preservation, however severe and challenging to our social concepts that revised priority may be.

All living things, including man, and all human activities on the surfaces of the earth, including all of our technology, industry, and agriculture, are dependent on the great interwoven cyclical processes followed by the four elements that make up the major portion of living things and the environment: carbon, oxygen, hydrogen, and nitrogen.

All of these cycles are driven by the action of living things: Green plants convert carbon dioxide into food, fiber, and fuel; at the same time they produce oxygen, so that the total oxygen supply in our atmosphere is the product of plant activity. Plants also convert inorganic nitrogen into protein, a critical foodstuff. Animals, basically, live on plant-produced food; in turn they regenerate the inorganic materials—carbon dioxide nitrates, and phosphates—which must support plant life. Also involved are myriads of microorganisms in the soil and water.

Altogether, this vast web of biological interactions generates the very physical system in which we live: the soil and the air. They maintain the purity of surface waters and by governing the movement of water in the soil and its evaporation into the air regulate the weather. This is the environment. It is a place created by living things, maintained by living things, and through the marvelous reciprocities of biological evolution is essential to the support of living things.

The environment makes up a huge, enormously complex living machine—the ecosphere—and on the integrity and proper functioning of that machine depends every human activity, including technology. Without the photosynthetic activity of green plants there would be no oxygen for our smelters and furnaces, let alone to support human and animal life. Without the action of plants and animals in aquatic systems, we can have no pure water to supply agriculture, industry, and the cities. Without the biological processes that have gone on in the soil for thousands of years, we would have neither food crops, oil, nor coal. This machine is our biological capital, the basic apparatus on which our total productivity depends. If we destroy it, our most advanced technology will come to naught, and any economic and political system which depends on it will founder. Yet, the major threat to the integrity of this biological capital is technology itself.

One example is the fact that much of our present water pollution problem is not caused by inadequate utilization of the present technology of sewage disposal, but rather the very success of that technology. Present sewage treatment procedures were designed to relieve the burden of organic wastes on the self-purifying biological system of surface waters, by converting these wastes to supposedly innocuous inorganic products, such as nitrate and phosphate. This sewage treatment system is quite successful in achieving its aim. The system is failing, however, because its inorganic products are themselves reconverted to organic materials by the green plants that participate in the aquatic biological system, thereby frustrating the initial aim of the treatment process. This accounts for much of the mass of rotting algae which fouls the water and beaches of Lake Erie.

To make present sewage treatment technology ecologically sound will require, at the least, the introduction of tertiary treatment stages to protect the ecosystem of surface waters (almost no plants of this type are now in operation), and ultimately, a wholly new type of system that returns organic waste to the soil so as to protect the declining quality of our soils. Much of the modern pollution problems derives from the effects of phosphates on algal overgrowths, and nearly all of the phosphate enters surface waters from municipal sewage treatment plants because of the widespread use of phosphate-rich detergents. For that reason, we must add to the cost of rolling back water pollution the economic consequences of remaking the detergent industry, so that phosphate can be eliminated from its products.

Another example of new problems created by what seem to be technological achievements is provided by modern agricultural technology, which is largely based on replacing the dwindling natural supply of plant nutrients in the soil by the massive use of inorganic fertilizers, especially nitrogen. These fertilizers greatly increase the immediate crop yields; but at the same time, the impoverishment of soil organic matter, by alterning the physical character of the soil (especially its porosity to oxygen), sharply reduces the efficiency with which the added fertilizer is taken up by the crop.

As a result, unused nitrogen fertilizer drains out of the soil into rivers and lakes, where it joins with the nitrate imposed on the water by the effluent of sewage treatment plants, causing overgrowths of green plants and the resultant organic pollution. The drainage of nitrogen from fertilizer has already destroyed the self-purifying capability of nearly every river in Illinois, and the same process is at work in many other parts of the nation. In the Midwest and California,

fertilizer drainage has raised the nitrate level of drinking water supplies above the safe limit recommended by public health authorities.

A third example which is—surprisingly—closely related to the previous ones is the matter of air pollution caused by automotive exhaust fumes. This problem originates with the production of nitrogen oxides by gasoline engines. Released to the air, these oxides, upon absorption of sunlight, react with waste hydrocarbon fuel to produce the noxious constituents of smog. This problem is the direct outcome of the technological *improvement* of gasoline engines: the development of the modern high-compression engine. Such engines operate at higher temperatures than older ones; at these elevated temperatures the oxygen and nitrogen of the air taken into the engine tend to combine rapidly, with the resultant production of nitrogen oxides.

The present smog control technique—reduction of waste fuel emission—by diminishing the interaction of nitrogen oxides with hydrocarbon wastes, enhances the level of airborne nitrogen oxides, which are themselves toxic. In the air nitrogen oxides are readily converted to nitrates, which are then brought down by rain and snow to the land and surface waters. There they add to the growing burden of nitrogen fertilizer. What is surprising is the amount of nitrogen oxides that are generated by our automotive traffic: They account for more than one-third of the nitrogen contained in the fertilizer currently employed on U.S. farms.

As a final example of the intrinsic failure of a technology which bears a considerable responsibility for the present pollution of the environment, look at the current status of the insecticide problem. Recent reports from Asia, Africa, and Latin America show that, with awesome regularity, major outbreaks of insect pests have been *induced* by use of modern contact-killing insecticides, because such insecticides kill the natural predator and parasitic insects which ordinarily keep the spread of insect pests under control. At the same time there is now increasing evidence that synthetic insecticides are responsible for declining populations of birds and fish. Because of such hazards, and the still poorly understood danger to man, DDT is being withdrawn from most of its uses.

I have cited these examples to illustrate the point that major problems of environmental pollution arise, not out of some minor inadequacies in our new technologies—but because of the very success of these technologies in accomplishing their designed aims. A modern sewage treatment plant causes algal overgrowths and resultant pollution *because* it produces, as it is designed to do, *so* much plant nutrient in its effluent. Modern, highly concentrated, nitrogen fertilizers result in the drainage of nitrate pollutants into streams and lakes just *because* they succeed in the aim of raising the nutrient level of the soil. The modern high-compression gasoline engine contributes to smog and nitrate pollution *because* it successfully meets its design criterion—the development of a high level of power. Modern synthetic insecticides kill birds, fish, and useful insects just *because* they are successful in being absorbed by insects, and killing them, as they are intended to do.

This raises an important question about new technology: Does it pay? Whether we ask this question in the direct language of profit and loss, or in the more abstract language of social welfare, the question is crucial. For, sooner or later, every human endeavor—if it is to continue—must pass this simple test: Is it worth what it costs? On the answer to this question depends the continued success of our economic system and the stability of the political framework which supports it.

It might appear that this question has already been answered. After all, power companies are eager to build plants for nuclear fuels rather than fossil ones; farmers rapidly adopt new insecticides, fertilizers, and machines. Apparently their cost accounting tells them that the new technologies yield the best available margin between income and costs. I should like to suggest, however, that these calculations are not complete—that certain costs have not yet been taken into account.

For example, what are the true costs of operating a coal-fired power plant in an urban area? The obvious costs—capital outlay, maintenance, operating costs, taxes—are well known. These costs are always less than the income derived from selling the power, given the requirements of our system of investment. But we have recently discovered that there are other costs and have even begun to put a dollar value upon them.

We now know that a coal-burning power plant produces not only electricity, but also a number of less desirable things: smoke and soot, oxides of sulfur and nitrogen, carbon dioxide, a variety of organic compounds, and dissipated heat. Each of these is a *non*-good and costs someone something. Smoke and soot increase the householder's laundry and cleaning bills; oxides of sulfur increase the cost of building maintenance; for organic pollutants we pay the price—not only in dollars, but in human anguish—of some number of cases of lung cancer.

Some of these costs can be converted to dollar values. The U.S. Public Health Service estimates the overall cost of air pollution at about $60 per person per year. A reasonable assessment of the portion of the $60 cost caused by power production from fossil fuels is about $20. This means that we must add to the cost of such power production for each urban family of four, about $80 per year—an appreciable sum relative to the annual bill for electricity.

The point of this calculation is obvious: The *hidden* costs of power production, such as air pollution, are *social* costs; they are met, not by a single producer, by many *consumers*. To discover the true cost of electric power we need to look for, and evaluate, all the hidden, social costs represented by environmental pollution—the dirty linen, so to speak. When we discover these hidden costs, we find that they degrade the biological capital—pure air—on which the lives and livelihood of the people depend.

We cannot escape from a profound truth of modern technology—for all its goods, we pay *some* price in hidden costs. These costs are a serious challenge to the social value of our new technology and the economic system which is based upon it. For the economic consequences of the hidden costs of environmental pollution attributable to modern technology are not trivial. It has been calculated that if the U.S. paper industry were required to meet present water-pollution standards, the industry would need to spend $100 million for each of ten years. The total profit in the paper industry is $300 million per year, so that, as a minimum, the bill represented by the pollution caused by the paper industry, if paid, would reduce the industry's profit by one-third for ten years.

The total cost of bringing water pollution control up to present standards has been calculated at $100 billion over the next ten to twenty years. The total economic loss from air pollution has been estimated at $11 billion annually. These sums loom large in the national budget. More important, for certain industries they may represent amounts which are so large relative to their profits as to constitute a serious threat to an industry's stability—if it were required to pay the full bill for the hidden costs of operation.

Environmental pollution represents a major social cost incident to the operation of our productive enterprises, a cost arising from the nature of the technology on which these enterprises are based. How, then, can we account for this pervasive relationship between technology and pollution? One answer to this question is that at least some of the environmental failures which are so characteristic of modern technologies are the end result of a response to economic pressure.

Let me illustrate this point by a fairly simple, but enlightening, example. For many years, dairy farming in the state of New York has been based on a particular breed, the Holstein cow. This animal was well suited to the small-scale irregular terrain of the local pastures. It efficiently grazed these fields, producing a direct economic return in the form of milk. At the same time, the Holstein cow helped considerably to maintain the capital investment represented by the farmer's pasture land, for its wastes contributed to the organic content of the pasture soil, maintaining its fertility in a natural manner. In such soil, soluble soil nutrients, such as nitrates, retain their naturally low levels and drainage of excess nitrate does not sufficiently stress the biological cycle of surface waters to cause water pollution. This is an ecologically balanced system capable of maintaining, indefinitely, a given level of productivity in the form of milk, and exacting little or no social cost in the form of pollution.

However, the rate of economic return from this system of dairying is low, relative to competitive forms of investment of the land and capital involved. Naturally the farmers were interested in ways of increasing the direct financial return from their dairy operations. This has taken the form of scientific efforts to breed a new strain of Holstein, capable of increased yields of milk per unit of feed. These efforts have met with success, and New York dairies now have available to them such high-yield Holstein breeds. As it happens, however, genetic selection for milk yield appears to be closely linked to the size of the animal. As a result, the new Holstein breeds are not only more productive, they are also considerably larger and heavier than their forebears.

For evident reasons, a large, heavy cow is not as agile as a smaller one, and farmers find that the new Holstein cows, unlike the original breed, are not as good at negotiating their hilly pastures—and are therefore unable, in that environment, to obtain sufficient nutrition by their own efforts. This biological difficulty can be solved—by an *economically* acceptable solution—by bringing the feed to the cow, which is then confined to a feedlot where its clumsy weight is no longer a handicap.

Thus, the Holstein has become, in effect, a kind of highly productive milk machine. But this machine, like other forms of technology, breaks the natural cycle of environmental processes. For now the cow no longer deposits its waste usefully over the pastures, but drops it instead in a restricted feedlot. Here, the waste constituents, such as nitrogen, can no longer become naturally incorporated into the soil. Instead, they overburden the soil's assimilatory capacity and nearly all of the nitrogenous material leaches through the soil into surface waters—where it becomes a pollutant.

At the same time, the pasture lands, now deprived of the organic matter of the cows' wastes, begin to decline in their fertility. Their productivity can be maintained by using inorganic fertilizer, which is now so cheap and easily spread as to compete favorably with manure. But, as already indicated, while this expedient is an effective way to maintain the immediate productivity of the land, it does so at the expense of a major *social* cost—added pollution of surface waters.

This example, though small in its scale, clearly shows how a technological change motivated by the demand for competitive financial return may succeed in this aim—but at the expense of the integrity of the natural environmental system—with the re-

sultant generation of new *social* costs, in the form of pollution.

A livestock animal produces much more waste than human beings, and the waste produced by domestic animals in the United States is about ten times that produced by the human population. Much of this waste production is confined to feedlots—in 1966 more than ten million cattle were maintained in feedlots before slaughter, an increase of sixty-six per cent over the preceding eight years. This represents about one-half of the total U.S. cattle population. Because of the development of feedlot techniques—much of it in the Midwest—the United States is confronted with a huge waste disposal problem, one considerably greater than the human sewage which we are attempting to handle with grossly inadequate treatment. The result is predictable—massive, still unresolved, pollution problems exists, especially in the surface waters of the Midwest.

As a necessary concomitant to this development, the United States has been forced to adopt, on an equally massive scale, chemical fertilization of the land, which is now deprived of the natural organic fertility of the animal wastes produced by cattle that once browsed on farmlands. In the period 1945–1968, the use of nitrogen fertilizer in the United States increased about fourteenfold. This vast change has occurred for sound economic reasons. Since 1945 the cost of farm labor, land, and machinery has risen about fifty to sixty per cent; but in that time the cost of fertilizer has *declined* about twenty-five per cent. Moreover, intensive use of fertilizer, especially of nitrogen, provides a quick return on the farmer's investment; a fertilizer investment made in the spring is quickly reflected in the return from the crop in the fall.

I have emphasized these agricultural problems because they most directly reveal our dependence on the natural systems which constitute the environment. These examples also show explicitly that environmental pollution is caused by the violation of the integrity of natural environmental systems and illustrate the seriousness of the immediate social costs of the resultant pollution. However, these agricultural problems also illustrate a much graver consequence of technological intrusions on the environment—a threat to the very survival of the biological systems which sustain us.

For example, one consequence of our increasing dependence on the massive use of inorganic nitrogen fertilizer may be the loss, perhaps irretrievably, of certain species of soil microorganisms which in nature sustain the fertility of the soil by converting the nitrogen of the air to soil-organic nitrogen. If this should happen, any effort to restore the dwindling organic content of the soil and return to a balanced soil-water system will become difficult, and in some areas, impossible. We would then be *forced* into increasing dependence on inorganic fertilizer, with its attendant water pollution; like a drug addict, we would be "hooked" on a continued self-destructive course.

We face a similar crisis in the control of insects. It has become increasingly clear that we will soon need to abandon our reliance on synthetic insecticides and restore the natural control of insect pests by their insect enemies. However, as the massive use of persistent insecticides—such as DDT—continues, some species of these useful insects may face extinction, so that biological control may be difficult, and perhaps impossible, to reestablish. We would then be forced to rely on synthetic insecticides—and be "hooked" on them.

In each of these examples it is evident that we have been driven to disrupt the integrity of the natural environment under the impetus of demands for competitive economic returns from a given productive process. And in each case, the new technology has not, in fact, yielded an unequivocal improvement in the ratio of productivity to cost of production because of the pervasive social cost of the resultant environmental disruption: pollution and, perhaps ultimately, our very survival.

These examples reflect a faith, now common in our society, that a technological advance which results in an improvement in the yield of a particular desired product is an undiluted social good. In a sense, this faith is justified. The modern automobile, or the nuclear reactor, is indeed a technological triumph. In each is embodied the enormous insights of modern physics and chemistry, and the exquisite skills of metallurgy, electronics, and engineering.

Our success is in the construction of these machines; our failure is in their operation. For, once the automobile is allowed out of the factory, and into the environment, it is transformed. It then reveals itself as an agent which has rendered urban air carcinogenic, burdened human bodies with nearly toxic levels of carbon monoxide and lead, embedded pathogenic particles of asbestos in human lungs, and contributed significantly to the nitrate pollution of surface waters. Similarly, the design and construction of a nuclear reactor epitomize all the skills of modern science and technology. However, once it begins to operate, it threatens rivers and lakes with its heated waters and human bodies with radiation.

We have already paid a large price for such illusions. For the advantages of automotive transportation, we pay a price in smog-induced deterioration and disease; for the powerful effects of new insecticides, we pay a price in dwindling wildlife and unstable ecological systems; for nuclear power, we risk the biological hazards of radiation; by increasing agricultural production with feedlot operations and fertilizers, we worsen water pollution.

Because of our illusions we have become unwitting victims of environmental pollution. Most of the technological affronts to the environment were made not out of greed but ignorance. We produced the automobile that envelops our cities in smog—long before anyone understood its harmful effects on health. We synthesized and disseminated new insecticides—before anyone learned that they also kill birds and might be harmful to people. We produced synthetic detergents and put billions of pounds into our surface waters—before we realized that they would not be degraded in disposal systems and would pollute our water supplies. For a number of years we spread radioactive fallout across the globe—before we learned that the resulting biological risks made it too dangerous to continue. We have unwittingly killed thousands of sheep in testing our chemical weapons and have triggered unanticipated earthquakes with our nuclear tests.

We have, in sum, blindly assaulted the integrity of the environmental systems that support us, and unwittingly risked our very survival.

This is some of the tragic destruction that lies hidden in the changing environment—costs that do not appear as entries in the balance sheets of industry and agriculture. These are some of the great debts which must be paid if the environment is to be saved from ultimate destruction. The debts are so embedded in every feature of the economy that it is almost impossible to calculate them.

What can we do to avert the environmental crisis?

I have tried to describe the nature of the environmental crisis, and to illuminate, from what we now know, its fundamental causes. In brief, we are in a crisis of *survival;* for environmental pollution is a signal that the ecological systems on which we depend for our life and our livelihood have begun to break down and are approaching the point of no return.

My own estimate is that if we are to avoid environmental catastrophe by the 1980s we will need to begin the vast process of correcting the *fundamental* incompatibilities of major technologies with the demands of the ecosystem. This means that we will need to put into operation essentially emissionless versions of automotive vehicles, power plants, refineries, steel mills, and chemical plants. Agricultural technology will need to find ways of sustaining productivity without breaking down the natural soil cycle, or disrupting the natural control of destructive insects. Sewage and garbage treatment plants will need to be designed to return organic waste to the soil, where, in nature, it belongs. Vegetation will need to be massively reintroduced into urban areas. Housing and urban sanitary facilities will need to be drastically improved. All of these will demand serious economic adjustments, and our economic and social system will need to be prepared to make them.

I believe that we have, as of now, a single decade in which to design the fundamental changes in technology that we must put into effect in the 1980s—if we are to survive. We will need to seize on the decade of the 1970s as a period of grace—a decade which must be used for a vast pilot program to guide the coming reconstruction of the nation's system of productivity. This, I believe, is the urgency of the environmental crisis—we must determine, now, to develop, in the next decade, the new means of our salvation.

I was proud, and moved, recently to be termed "The Paul Revere of Ecology." To extend the metaphor a bit, what should we expect of President Nixon if he hopes to become the nation's first eco-President, or, if you like, "The George Washington of Ecology"?

The nation has been told by President Nixon that: "Through years of carelessness we incurred a debt to nature, and now that debt is being called." Here are some of the ecologically urgent actions that are within his power, as President, to take:

One—He can announce to the nation that we are, now, in a fight for environmental survival and declare a state of national ecological emergency.

Two—He can act to enable the scientific community to take the first steps toward environmental survival by releasing it from the paralyzing effects of the most severe cutbacks in research support in twenty-five years.

Three—He can find the immediate means to devote Federal resources to a simple, yet enormously meaningful, program: Let us declare that every piece of land not in actual use by its owners must be returned, until otherwise needed, to grass and trees; let us find the means to remove the abandoned buildings and junk piles from blighted city streets and restore the latter to nature's green.

Four—He can, in the name of ecological sanity, halt the development of the supersonic transport (SST)—an environmental horror which, if it is ever flown in the nation's airlanes, will expose a fourth of the nation to noise equivalent to that which surrounds our airports.

Five—He can avert the impending $250 million appropriation for the construction of the Florida Barge Canal, a project which in the considered opinion of ecologists will do more harm to the welfare of the state than any possible commercial value that it might yield.

Six—He can call a halt to the exploitation of oil deposits in Alaska, until the project devises—if it can—methods of drilling and transport that do not risk the future of the delicately balanced ecosystem of our—and Canadian—arctic territories. He can also hold in abeyance the further exploitation of

offshore oil in California and elsewhere until the ecological risks are effectively mastered.

Seven—He can stop the war in Vietnam and halt the barbaric destruction of the ecological resources of that unfortunate land, not only by unprecedented destruction of its vegetation with weed killers, but the destruction of the land itself and of its people by the needless horror of war.

Eight—He can declare to the world what we in the scientific community have long known—that modern warfare, with its nuclear, chemical, and biological weapons—is totally incompatible with the continued life of mankind and take steps toward the permanent dismantling of the war machine that holds the whole world in terror.

These immediate actions, and the long-term massive effort to roll back pollution at its roots, amount to a wholesale reorganization of our national priorities. But if we are staggered by the magnitude and gravity of these undertakings, let us remember that we have indeed "incurred a debt to nature," a debt which must be paid if we are to survive.

The environmental crisis is a grim challenge. It also is a great opportunity. From it we may yet learn that the proper use of science is not to conquer nature, but to live in it. We may yet learn that to save ourselves we must save the world that is our habitat. We may yet discover how to devote the wisdom of science and the power of technology to the welfare, the very survival, of man.

AIR SERVICE TO SMALL COMMUNITIES

Mr. CANNON. Mr. President, beginning Friday, April 10, the Aviation Subcommittee of the Committee on Commerce will engage in a series of field hearings to look into the adequacy of scheduled air service to our smaller communities. It may be that our Western States suffer the most in this regard, but I am sure the problem is widespread.

I suspect the beginning of this problem was when the trunks shifted to jets, and dropped from their routes some of the smaller of our cities. These were inherited by our local service carriers, but when this group started to bring their jets into service, the same process started all over. I think we will find some of these stops must now rely on air taxi service.

The subcommittee plans to hold hearings in Montana, Utah, Nevada, Kansas, Washington, New England, and the District of Columbia.

We will be studying the local service carrier, the commuter carrier, and the air taxi, and we will take a look at the subsidy plans of the CAB.

But the basic responsibility for providing service to our smaller cities lies with the nine regional local service carriers who have been providing this service for more than 20 years, with the support of subsidy payments from the Federal Government. Airline service to these cities costs a great deal more than the carriers receive in revenues from passengers, mail, and freight.

Prior to 1967, these carriers were provided with sufficient subsidy payments to enable them to achieve profitable operations. Since then, however, they have sustained tremendous operating losses as a result of increasing operating costs and declining subsidy payments.

The nine regional local service carriers sustained a net loss of $48.5 million in 1969; this is on top of losses of $28 million in 1968 and $4.3 million in 1967. These losses over the past 3 years have completely eliminated the accumulated earnings of the regional carriers, leaving them with a combined earnings deficit of approximately $50 million after more than 20 years of public service. These are shocking figures when it is remembered that the Civil Aeronautics Board has determined that carriers of this class need to earn a profit of more than 8 percent per year on their investment in order to continue as a sound economic enterprise.

The reasons for this extraordinary situation are complicated and diverse. The first cause was the determination by the Civil Aeronautics Board in 1966 that the regional carriers should be able to withstand major subsidy reductions as their revenues increased—hence a subsidy reduction program was adopted which resulted in automatic subsidy reductions as revenues did increase. This program resulted in a reduction in subsidy payments from $72 million in the fiscal year 1966 to $48 million in fiscal 1969 with a further reduction due in the current fiscal year, although the CAB is now considering freezing the present level of payments for 1 year.

Ironically, the local carriers' cost increased at this time for several reasons, the most important being the sharp increase in operating costs which followed the 1966 airline strike. This inflationary spiral has continued unabated since 1966.

Also there was a general decline in traffic growth at smaller cities resulting partially from the trend of migration to the larger cities and from the loss of traffic due to an improved highway system.

Another factor affecting the local carriers was their acquisition of jet aircraft and their entry into longer haul markets. These, given time, have obvious profit potential. I am afraid, however, that the route expansion program of the CAB, while sound in principle, failed to recognize the time required to develop new routes and the impact of increased operating costs resulting from steady inflation.

These developments have placed our local service carriers in a critical position. Generally they have tried to endure this burden of deficit operations in hopes that their new routes would develop to the point where they could operate under the reduced subsidy levels produced by the current subsidy formula.

Many of my colleagues have received complaints from communities in their States about the deterioration of local airline service. It is not surprising, however, that a group of nine carriers which is sustaining a loss of $48.5 million per year is unable to provide the same quality of service as it once provided when they were making a reasonable profit on their operations.

Moreover, it is reasonably clear that a continuation of this drain on the carriers' financial resources will inevitably cripple their ability to provide improved local service in the future.

The question whether the present local carriers should continue to be required to serve very small cities or cities which have reasonably close proximity to other larger air terminals is one which deserves careful evaluation. There is also the question whether this service can be more economically provided by the so-called third level commuter carriers operating smaller aircraft with perhaps some assistance from the Government.

The regional local service airline industry of this Nation is an invaluable asset to our national transportation system and we must preserve it. After these hearings, the Aviation Subcommittee will be able to suggest to the Committee on Commerce what we think should be done to preserve this invaluable asset to our transportation system.

UNITED AIR LINES RESERVATION CENTER

Mr. ALLOTT. Mr. President, last week, United Air Lines announced the selection of Denver as a national headquarters for a $5.2 million electronics reservation system. The 200 additional employees to be hired at this center will create an annual payroll of between $3 and $4 million. It will increase United Air Lines total employment in the Denver area to more than 3,000 with wage earnings of nearly $40 million annually.

This further step by United is a vote of confidence in Denver and Colorado. We in Colorado have had only the finest of relations with United over the years, and we are obviously delighted at this decision to expand United's commitment in our State.

Once again, we salute United and welcome this new addition to a growing family of services which United is offering the people of America through its facilities in Colorado.

Mr. President, I ask unanimous consent that the text of an announcement made in Denver on April 2 regarding a reservations center be printed in the RECORD.

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

UNITED AIR LINES NEW NATIONAL RESERVATION CENTER

Selection of Denver as headquarters for a nationwide electronics reservations system which United Air Lines has under development was disclosed today (April 2), by G. E. Keck, President.

Keck simultaneously announced acquisition of a 6.5 acre site in the Denver Technological Center where the company's national reservations center will be built. The $5.2 million complex housing computers and related equipment will be completed this fall.

"Geographic advantages and availability of qualified personnel pointed to Denver as the logical choice", Keck said. "The local concentration of communications facilities also was an important factor and of course United's long association with the city was considered."

Keck said about 200 clerical workers, technicians and reservations specialists would be stationed at the Denver center. He estimated the annual payroll at $3 to $4 million. This would increase United's total employment in the Denver area to more than 3000 with a yearly payroll of almost $40 million.

The company's construction program calls

for a central computer building, administrative offices and a power plant. The computer building will have two levels providing total floor space of 70,000 square feet. Temperature and humidity will be controlled to assure optimum conditions for computer operations.

The power plant will house electrical generators driven by natural gas powered turbines. This will supply uninterruptable power with the added advantage of quiet operation and no air pollution. Pre-cast concrete aggregate will be used for all building exterior.

The buildings were co-designed by Lusk & Wallace and Carl A. Worthington & Associates, architects. Olson Construction Company is the general contractor. Electrical and mechanical installations will be made by Swanson & Rink in association with G. M. Wallace & Associates, Inc.

Keck said United is negotiating with International Business Machines Corporation for computers and other electronic equipment to be used for reservations control and the maintenance of passenger name records. Installation and testing of some equipment will begin in August concurrent with partial occupancy of the new buildings. "We expect to have the new system in operation within a year," Keck said. "It is designed for orderly development in relation to progress in computer technology and communications."

Control of reservations on United flights has been centralized at Denver since 1948. The company's central processor site for its present Instamatic reservations system is at 38th and Popular Streets. During an interim period Instamatic and the IBM replacement system will be inter-connected.

The airline executive expressed gratitude to the Mountain Bell Telephone Company, the Public Service Company of Colorado and the Denver Technological Center for assistance in United's preliminary studies and planning.

Commenting on United's program George Wallace, President of the Denver Technological Center said, "We are particularly pleased by United's decision to locate its national reservations center here. This represents an important step for Colorado and its development as a central communications point for the nation. United's plans require a round-the-clock effort on our part. We are confident of our ability to provide the right environment for what may become the largest computer and communications center in the United States."

"MA THICKET" URGES PRESERVATION OF BIG THICKET OF TEXAS AS A NATIONAL PARK

Mr. YARBOROUGH. Mr. President, Mrs. Ethel Osborn Hill of Port Arthur, Tex., is an amazingly young lady of nearly 92 years. She has been an active booster of the Big Thicket for most of those years, and is still going strong. Mrs. Hill has been honored with the title of "Ma Thicket" by her many friends and fellow Big Thicket conservationists. Just last year, her 91st, she spoke to over 2,000 people in various organizations and groups and told them of the glories of the Big Thicket and why it should be saved.

In a recent letter to me she said that she hopes to see something done to save the Big Thicket while she is still living to see it. She also pointed out that the Big Thicket project has been studied and discussed for over half a century and that we do not need more study; we need more action.

Mrs. Hill writes a regular newspaper column for the Tyler County Booster. A recent article, which she authored, gives her views on the direction we should take to preserve our precious natural heritage. I ask unanimous consent to have her article under the title "America Still Is" from a recent issue of the Tyler County Booster printed in the RECORD.

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

AMERICA STILL IS—ONE WOMAN'S OPINION

(By Mrs. Ethel O. Hill)

America is digging out from snow drifts in some sections and in others are planting spring gardens. What a wonderful country. And a thing to be thankful for is that any citizen can live or move from place to place without asking permission from an overlord or be watched by secret police, as in the many countries of ths world today. Freedom is not dead in America, though I am strongly in favor of its being denied from those who daily abuse that freedom, the flag, the rules of decency, the government and the Constitution. If they don't like it in America they should go to some other country, like Russia. There they might really learn the value of America's freedom.

And as to freedom of choice, nature has a grand way of demonstrating it. If certain trees, plants or flowers decide to wait till summer to bloom, that's what they do. If some decide to come out to cheer the landscape in mid-winter, they do just that. On this January, freezing cold day, my yard is polka-dotted and embroidered with beautiful little white golden-eyed narcissus and a few glory-of-the-snow blooms, pink or white rain lilies have popped up, and right down again, all winter. And the evergreen fern has flourished continually. Two weeks ago when at my beloved cabin I saw the dogwood buds already swelling. Spring is on the way. Let us hope that world peace and harmony is thinking of blooming.

But with all this, we can't get away from many other phases of the country. Such as the wanton destroying of matchless natural resources and beauty. I see the heading of an article on the Big Thicket (my pet project for fifty years). The caption, in box car letters reads, "Big Thicket Park Project Needs More Study." How much more time than half a century is needed? And many groups and individuals seem to think that it is a perfectly new idea. Even that the thought originated with them and figuratively they "bust into print" shouting "hey, folks, listen to what I've just thought up. Let's have a park in the Big Thicket." Well, the Big Thicket is fast disappearing and could become either a huge swamp or a mammoth desert. It could end up as an immense site for manufacturers or orbiting sites for more ways to reach the moon, Mars, Saturn or other far away places with queer stones and dust. And where no life exists. Billions of dollars (taxpayer's dollars) are thus spent, and to heck with the old earth and its trees.

That seems to be the sentiment with those who have the privilege of spending the people's money. But congress can't see appropriating a few thousand dollars to save this wonderful bit of the forest primeval. Will the time come when children will ask, "Trees? What is trees?" It is said that in the future there will be no need for kitchens to be included in home buildings because there will be no cooking. We will subsist on nutrition pills, scientifically compounded, delivered by mail daily. Each family member will gulp down its quota of vitamins each morning and go on their daily routine. Imagine, never an apple pie baked in a home, or a batch of cookies, or a pot of good home-made soup. I'm glad I won't be here if that time comes. But like many other far-fetched plans, I don't believe it. I don't believe in ghosts either, but maybe?

Back to the Big Thicket park business. The first real survey was made in the early 1930's by a group of dedicated scientists, naturalists, agronomists, representing many high authorities from many universities in and out of the state. The results, published in a booklet "The Flora and Fauna of the Big Thicket" is now a collector's item. And in that book is urged the preservation of this great forest for future generations to come. But monied big businesses and wealthy individuals seem to have thought only of profit in money, not natural beauty. Even 50 years ago the plan favored by the original Big Thicket Association was to preserve certain beauty spots, and not hundreds of thousands of acres. Asking for 100 thousand acres, I mean the appropriation from our present economy-minded Congress was almost certain to kill the project to begin. It costs too many billions to get a handful of moon dust and rocks. Congress just can't do everything, you know.

When I try to envision the immensity of space, I think of Halley's comet. It appears every seventy-five years, going at a velocity of millions of miles per time unit, making as complete a circle as a sun or moon. Yet it takes that 75 years to complete. It appeared in an early decade of this century, visible for several nights and was an awesome sight. When I told my children that they might live to see it again, but I would not, my little daughter wept, saying, "But if you are not here who will wake me up at the right time of night to see it?" But at the rate I'm living and with the aid of our marvelous medical science, I just might live to see Halley's comet the second time.

SUPPORT FOR NOMINATION OF JUDGE G. HARROLD CARSWELL TO THE SUPREME COURT

Mr. GURNEY. Mr. President, further proof of the vast outpouring of support for Judge Carswell from the Florida bar is contained in a number of telegrams and a letter of endorsement from various bar associations from all over the State. I ask unanimous consent that they be printed in the RECORD.

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

PENSACOLA, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

The society of the bar of the First Judicial Circuit of Florida whose membership includes attorneys from Escambia, Santa Rosa Okaloosa and Walton Counties, has on two occasions in regular meetings unanimously endorsed Judge G. Harrold Carswell as a Justice of the U.S. Supreme Court and by resolution urged his confirmation. Action endorsing Judge Carswell was taken at our Jan. 22 meeting and again on March 19th. As members of the bar in the district in which Judge Carswell presided as District Judge the members of our society have had unlimited opportunity to observe the manner in which he has presided, and the fairness of his decisions. Judge Carswell presided over his court with dispatch, dignity and with an inherent sense of Justice. His courtroom manner has been firm but fair and his decisions have been deliberate and unquestionable intended by him to uphold the Laws and Supreme Court decisions of our Great Nation. He has always treated members of the bar appearing before with with courtesy and respect and accusations to the contrary that have been made came as a surprise to us all and are definitely unfounded. Speaking per-

sonally I have known Judge Carswell since his appointment as United States attorney and it is my opinion that he was a competent attorney and is now a very able and astute jurist. He enjoys great respect from the members of the bar for his legal ability and his personal reputation is excellent. We wholeheartedly endorse our fellow citizen and distinguished Judge G. Harrold Carswell.

R. BROWNLEE EGGART,
President, Society of Bar, First Judicial Circuit of the State of Florida.

SANFORD, FLA.,
April 4, 1970.

Senator EDWARD GURNEY,
Senate Office Building,
Washington, D.C.:

I was distressed to hear a few moments ago on TV news that Harrold Carswell's opponents now have enough votes to return his nomination to the Judiciary committee. Harrold and I were admitted to practice before the Federal District Court in Tallahassee on the same day in 1949. I was well acquainted with him from 1949 through 1955. I know he is not a racist. For 13 years now, I have served as a Florida circuit judge. I, too, have been reversed by Appellate courts about 20 times. 20 reversals when a judge has considered more than 10,000 cases isn't bad. Why don't you get the number of cases Harrold has considered. Another good argument would be that most of a judges reversals occur because the lawyers prepare at the Appellate level but do not show the same courtesy to a trial judge.

VOLIE A. WILLIAMS, Jr.,
Circuit Judge.

ST. AUGUSTINE, FLA.,
April 4, 1970.

Hon. EDWARD J. GURNEY,
Washington, D.C.:

St. Johns County Florida Bar Association overwhelmingly endorses Carswell confirmation.

JOHN J. UPCHURCH,
Secretary.

STUART, FLA.,
April 4, 1970.

Senator EDWARD GURNEY,
Senate Office Building, Washington, D.C.:

Martin County Bar Association considered G. Harrold Carswell eminently qualified to serve as an associate justice of U.S. Supreme Court and urges the U.S. Senate to confirm President Nixon's appointment of Judge Carswell.

MALLORY L. JOSON,
President, Martin County Bar Association.

OCALA, FLA.,
April 4, 1970.

Senator EDWARD GURNEY,
New Senate Office Building, Washington, D.C.:

I am in strong support of you and our other congressmen who are supporting the confirmation of Judge G. Harrold Carswell as Justice of the Supreme Court and unqualifiedly endorse his appointment.

WILLIAM T. SWIGERT,
President, Marion County Bar Association.

LIVE OAK, FLA.,
April 3, 1970.

Honorable ED GURNEY,
New Senate Office Building, Washington, D.C.:

Those closest to Judge Harrold Carswell have known him to be a man of the highest integrity, competency and ability. He has always been a man of even temperament and has rendered justice firmly and impartially.

The attorneys in the Third Judicial Circuit of the Florida Bar unanimously endorse his confirmation as a Justice of the U.S. Supreme Court.

C. DEAN LEWIS,
President, Third Circuit Bar Association of Florida.

PANAMA CITY, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building, Washington, D.C.:

The Bay County Bar Association supports the nomination of Judge Harrold Carswell to the Supreme Court of the United States and urges his hasty confirmation by the United States Senate.

LARRY BODIFORD,
Vice President.

FORT PIERCE, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building, Washington, D.C.:

I personally feel that the best interest of the bench and bar will be enhanced by the appointment of Judge Carswell as a Justice of the U.S. Supreme Court.

ELSIE M. O. LAUGHLIN,
President of St. Lucie County Bar Association.

BROOKSVILLE, FLA.,
April 3, 1970.

Senator GURNEY,
Washington, D.C.:

Florida County Judges Association supports confirmation of Judge Carswell to Supreme Court.

MONROE W. TREIMAN,
Executive Secretary.

JACKSONVILLE, FLA.,
April 3, 1970.

Senator ED GURNEY,
Washington, D.C.:

I am a Negro businessman in Jacksonville, Florida. I believe in justice for all people I think Judge G. Harrold Carswell of Tallahassee, Fla., is eminently qualified to sit in the highest court of our land and I speak for thousands of my black and white friends and I urgently implore the Senate to confirm this man.

WILLIE R. MOTLEY.

TAVARES, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building,
Washington, D.C.:

I endorse nomination of Judge Carswell as does vast majority of our bar association members.

CHRISTOPHER C. FORD,
President, Lake Sumpter Bar Association.

DADE CITY, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building,
Washington, D.C.:

The Pasco County Bar Assn. Dade City, Fla., today unanimously passed resolution supporting Judge G. Harrold Carswells nomination as a justice of the U.S. Supreme Court and urging you to take all action necessary to insure his confirmation.

A. P. GIBBS,
President.

BROOKSVILLE, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building,
Washington, D.C.:

Strongly urge your full support for confirmation of Judge Carswell.

JOSEPH E. JOHNSTON, Jr.,
President, Brooksville Bar Association.

FORT WALTON BEACH, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building,
Washington, D.C.:

The reputation for honesty, legal ability and fairness processed by the Honorable G Harold Carswell demands his speedy confirmation as a justice for our highest court.

HUGH T. HANDLEY,
President of Okaloosa and Walton Bar Association.

FORT WALTON BEACH, FLA.,
April 3, 1970.

Senator EDWARD GURNEY,
New Senate Office Building,
Washington, D.C.:

The reputation for honesty, legal ability and fairness processed by the Honorable G. Harrold Carswell demands his speedy confirmation as a justice of our highest court.

CHARLES R. TIMMEL,
Municipal Judge, Town of Mary Esther.

THE BAR ASSOCIATION OF TAMPA AND HILLSBOROUGH COUNTY,
Tampa, Fla., April 2, 1970.

Hon. SPESSARD L. HOLLAND,
Hon. EDWARD J. GURNEY,
Washington, D.C.

DEAR SENATOR HOLLAND AND SENATOR GURNEY: The Executive Board of this Association has adopted the following resolution in support of the nomination of Judge G. Harrold Carswell as an Associate Justice of the Supreme Court:

The Executive Board of the Bar Association of Tampa and Hillsborough County endorses the nomination of Judge G. Harrold Carswell to the Office of Associate Justice of the Supreme Court of the United States and urges his early confirmation.

Copies of this letter are being furnished to the other members of the Senate.

Respectfully,

C. LAWRENCE STAGG,
President.

EXPLANATION OF ABSENCE OF SENATOR COOPER AND SENATOR COOK ON TWO YEA-AND-NAY VOTES

Mr. COOK. Mr. President, for myself and the senior Senator from Kentucky (Mr. COOPER), I desire the RECORD to show that on the rollcall votes on the amendments of the Senator from Delaware (Mr. WILLIAMS) and the Senator from Minnesota (Mr. MCCARTHY) we were absent on official business at the White House in the company of Mr. and Mrs. Ishmael Nash, of Whitesville, Ky., who were receiving, posthumously, the Medal of Honor for their son, Pfc. David P. Nash, who lost his life for his country in Vietnam on December 29, 1968.

THE YOUNG HAVE NO MONOPOLY ON YOUTH

Mr. PEARSON. Mr. President, our country is preoccupied with youth.

To be young or to appear young today is supposed to be the ultimate in achievement, and seldom do we hear a brave voice raised to state an unavoidable truth—we have all been young. Stated facetiously, there is not a man or a woman over 30 living today who has not also lived through those years under 30. Today's younger generation does not have a monopoly on youth—all of us have been there, some longer ago than others.

But today's younger generation feels that it does have a monopoly on knowing how the world should be run. We have forgotten many of the old axioms such as, "experience is the best teacher," and, most of the time, many of us over 30

react as if we feel that youth does have all the answers.

One man, at least, has had the intestinal fortitude to speak up for those of us on the dark side of 30. I invite the Senate's attention to an item published in the Kansas City Times of March 28. It is a reprint from the Denver Post and was written by Dr. K. Ross Toole, a professor of history at the University of Montana in Missoula.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

TIME TO STOP APOLOGIZING TO YOUTH

(By Dr. K. Ross Toole)

I am 49 years old. It took me many years and considerable anguish to get where I am—which isn't much of any place except exurbia. I was nurtured in depression; I lost four years to war; I am invested with sweat; I have had one coronary; I am a "liberal," square, and I am a professor. I am sick of the "younger generation," hippies, Yippies, militants and nonsense.

I am a professor of history at the University of Montana, and I am supposed to have "liaison" with the young. Worse still, I am father of seven children. They range in age from 7 to 23—and I am fed up with nonsense. I am tired of being blamed, maimed and contrite; I am tired of tolerance and the reaching out (which is always my function) for understanding. I am sick of the total irrationality of the campus "rebel," whose bearded visage, dirty hair, body odor and "tactics" are childish but brutal, naive but dangerous, and the essence of arrogant tyranny—the tyranny of spoiled brats.

I am terribly disturbed that I may be incubating more of the same. Our household is permissive, our approach to discipline is an apology and a retreat from standards—usually accompanied by a gift in cash or kind.

It's time to call a halt; time to live in an adult world where we belong and time to put these people in their places. We owe the "younger generation" what all "older generations" have owed younger generations—love, protection to a point and respect when they deserve it. We do not owe them our souls, our privacy, our whole lives; and above all, we do not owe them immunity from our mistakes, or their own.

Every generation makes mistakes, always has and always will. We have made our share. But my generation has made America the most affluent country on earth; it has tackled, head-on, a racial problem which no nation on earth in the history of mankind had dared to do. It has publicly declared war on poverty and it has gone to the moon; it has desegregated schools and abolished polio; it has presided over the beginning of what is probably the greatest social and economic revolution in man's history.

It has begun these things, not finished them. It has declared itself, and committed itself, and taxed itself and damn near run itself into the ground in the cause of social justice and reform.

Its mistakes are fewer than my father's generation—or his father's, or his. Its greatest mistake is not Vietnam, it is the abdication of its first responsibility, its pusillanimous capitulation to its youth and its sick preoccupation with the problems, the mind, the psyche, the raison d'etre of the young.

Since when have children ruled this country? By virtue of what right, by what accomplishments should thousands of teenagers, wet behind the ears and utterly without the benefit of having lived long enough to have either judgment or wisdom, become the sages of our time?

The psychologists, the educators and preachers say the young are rebelling against our archaic mores and morals, our materialistic approaches to life, our failures in diplomacy, our terrible ineptitude in racial matters, our narrowness as parents, our blindness to the root ills of society. Balderdash!

Society hangs together by the stitching of many threads. No 18-year-old is simply the product of his 18 years: he is the product of 3,000 years of the development of mankind—and throughout those years, injustice has existed and been fought; rules have grown outmoded and been changed; doom has hung over men and been avoided; unjust wars have occurred; pain has been the cost of progress—and man has persevered.

As a professor and the father of seven, I have watched this new generation and concluded that most of them are fine. A minority are not—and the trouble is that minority threatens to tyrannize the majority and take over. I dislike the minority; I am aghast that the majority "takes" it and allows itself to be used. And I address myself to both the minority and the majority. I speak partly as a historian, partly as a father and partly as one fed up, middle-aged and angry member of the so-called "Establishment"—which, by the way, is nothing but a euphemism for "society."

Common courtesy and a regard for the opinions of others is not merely a decoration on the pie crust of society, it is the heart of the pie. Too many "youngsters" are egocentric boors. They will not listen, they will only shout down. They will not discuss but, like 4-year-olds, they throw rocks and shout.

Arrogance is obnoxious; it is also destructive. Society has classically ostracized arrogance without the backing of demonstrable accomplishment. Why, then, do we tolerate arrogant slobs who occupy our homes, our administration buildings, our streets and parks, urinating on our beliefs and defiling our premises?

It is not the police we need, (our generation and theirs) it is an expression of our disgust and disdain. Yet we do more than permit, we dignify it with introspective flagellation. Somehow it is our fault. Balderdash again!

Sensitivity is not the property of the young, nor was it invented in 1950. The young of any generation have felt the same impulse to grow, to reach out, to touch stars, to live freely and to let the minds loose along unexplored corridors. Young men and young women have always stood on the same hill and felt the same vague sense of restraint that separated them from the ultimate experience—the sudden and complete expansion of the mind, the final fulfillment. It is one of the oldest, sweetest and most bitter experiences of mankind.

Society, "the Establishment," is not a foreign thing we seek to impose on the young. We know it is far from perfect. We did not make it; we have only sought to change it. The fact that we have only been minimally successful is the story of all generations coming up. Yet we have worked a number of wonders. We have changed it.

We are deeply concerned about our failures; we have not solved the racial problem but we have faced it; we are terribly worried about the degradation of our environment, about injustices, inequities, the military-industrial complex and bureaucracy. But we have attacked these things. We have, all our lives, taken arms against our sea of troubles—and fought effectively. But we also have fought with a rational knowledge of the strength of our adversary; and, above all, knowing that the war is one of attrition in which the "unconditional surrender" of the forces of evil is not about to occur.

We win, if we win at all, slowly and painfully. That is the kind of war society has always fought—because man is what he is.

Knowing this, why do we listen subserviently to the violent tacticians of the new generation? Either they have total victory by Wednesday next or burn down our carefully built barricades in adolescent pique; either they win now or flee off to a commune and quit; either they solve all problems this week or join a wrecking crew of paranoids.

Youth has always been characterized by impatient idealism. If it were not, there would be no chance. But impatient idealism does not extend to guns, fire bombs, riots, vicious arrogance and instant gratification. That is not idealism; it is childish tyranny.

The worst of it is that we (professors and faculties in particular) in a paroxysm of self-abnegation and apology, go along, abdicate, apologize as if we had personally created the ills of the world—and thus lend ourselves to chaos.

I assert that we are in trouble with this younger generation not because we have failed our country, not because of affluence or stupidity, not because we are middle-class materialists—but simply because we have failed to keep that generation in its place and we have failed to put them back there when they got out of it. We have the power; we do not have the will. We have the right; we have not exercised it.

To the extent that we now rely on the police, mace, the National Guard, tear gas, steel fences and a wringing of hands, we will fail.

What we need is a reappraisal of our own middleclass selves, our worth and our hard-won progress. We need to use disdain, not mace; we need to reassess a weapon we came by the hard way, by travail and labor, firm authority as parents, teachers, businessmen, workers and politicians.

The vast majority of our children from 1 to 20 are fine kids. We need to back this majority with authority and with the firm conviction that we owe it to them and to ourselves. Enough of apology, enough of analysis, enough of our abdication of responsibility, enough of the denial of our own maturity and good sense.

The best place to start is at home. But the most practical and effective place, right now, is our campuses. This does not mean a flood of angry edicts, a sudden clamp-down, a "new" policy. It simply means that faculties should stop playing chicken, that demonstrators should be met not with police but with expulsions. The power to expel (strangely unused) and has been the legitimate recourse of universities since 1209.

More importantly it means that at freshman orientation, whatever form it takes, the administration should set forth the ground rules—not beligerently but forthrightly.

There is room within the university complex for basic student participation but there is no room for slobs, disruption and violence. The first obligation of the administration is to lay down the rules early, clearly and positively, and to attach to this statement the penalty for violation. It is profoundly simple—and the failure to state it—in advance—is the salient failure of university administrators in this age.

Expulsion is a dreaded verdict. The administration merely needs to make it clear, quite dispassionately, that expulsion is the inevitable consequence of violation of the rules.

Among the rules, even though it seems gratuitous, should be these:

Violence, armed or otherwise, the forceful occupation of buildings, the intimidation by covert or overt act of any student or faculty member or administrative personnel, the occupation of any university property, field, park, building, lot or other place, shall be cause for expulsion.

The disruption of any class, directly or indirectly, by voice or presence or the destruc-

tion of any university property, shall be cause for expulsion.

This is neither new nor revolutionary. It is merely the reassertion of an old, accepted and necessary right of the administration of any such institution. And the faculty should be informed, firmly, of this reassertion, before trouble starts.

Suppose the students refuse to recognize expulsions, suppose they march, riot, strike. The police? No. The matter, by prearrangement, publicly stated, should then pass to the courts.

If buildings are occupied, the court enjoins the participating students. It has the lawful power to declare them in contempt. If violence ensues, it is in violation of the court's order. Courts are not subject to fears, not part of the action. And what militant will shout obscenities in court with contempt hanging over his head?

This is a country full of decent, worried people like myself. It is also a country full of people fed up with nonsense. We need (those of us over 30)—tax-ridden, harried, confused, weary and beat-up—to reassert our hard-won prerogatives. It is our country, too. We have fought for it, bled for it, dreamed for it, and we love it. It is time to reclaim it.

FEDERAL PAY LEGISLATION

Mr. McGEE. Mr. President, I ask unanimous consent to have printed in the RECORD a thoughtful article from this morning's Wall Street Journal concerning the postal and classified employee's pay legislation now pending before the Congress.

The gist of the article is that it would be a serious error of judgment for the Congress to favor one group of Federal workers over another in making pay adjustments, because of the growing unrest among workers in all occupations and the likelihood of the postal strike spilling over into other agencies of the executive branch. That is an unpleasant thought, but one that should be kept in the forefront of our minds as we attempt to resolve this problem.

My statement last Friday concerning the Post Office Committee's willingness to enact any administration proposal for pay adjustments stipulated that classified workers must be included in the package. There are as many classified employees in the lower levels of pay as there are postal workers, and despite oratory to the contrary, the opportunities for advancement from those clerical and laboring levels in the classified service are really about as limited as they are in the postal service. What is fair for one is fair for all; and I think it would be folly to disregard the implications of rewarding postal workers at the expense of Defense workers, air traffic controllers, revenue agents, or any of the other very fine and very dedicated 1.3 million classified workers who are still on the job—and still waiting for their pay increases.

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

[From the Wall Street Journal, Mar. 24, 1970]

SPREADING MILITANCY: MAIL STRIKE COULD SPUR OTHER FEDERAL WORKERS TO RESORT TO WALKOUTS

(By Richard J. Levine)

WASHINGTON.—Three years ago a local official of the American Federation of Government Employes told a visitor that someday his union might be forced to strike the Social Security Administration headquarters in Baltimore, despite a strict law to the contrary.

At the time, the prospect of such a development seemed rather dim. But the illegal strike by postal workers that began last week and persisted yesterday may have changed all that. Now Federal officials are faced with the grim possibility that the widespread mail strike—the first major walkout against the Federal Government—could trigger strikes by other civil servants in the sprawling bureaucracy.

"Two hundred years of tradition has been shattered" by the mail strike, laments a top Labor Department official. He, like other Administration men, believes that the manner in which this hot issue is finally resolved will set important precedents—and will either encourage or discourage future strikes by other Federal employes.

This wide danger, now being perceived by the Nixon Administration, helps explain the increasingly tough stand the President is taking in the postal tie-up. Yesterday he ordered troops to move strike-bound mail in New York City and called for Justice Department action against any illegal picketing that might keep postal employes from returning to work.

Even if this Presidential pressure brings an early end to the mail strike the danger of other Federal employe strikes will be undiminished. One reason is simply that the postal workers now seem surer of winning generous raises than they would have been without a walkout. Such an outcome would probably fuel the militancy of other government workers.

Already presidents of nonpostal Federal employe unions are warning they may have trouble controlling their members. Kenneth Lyons, president of the National Association of Government Employes, which represents some 158,000 blue-collar and white-collar workers all through the Government, has told the White House he is being deluged by inquiries from local officers asking: "If the postal workers can do it, why can't we?"

MAN ON THE SPOT

Perhaps the man with the toughest problem is John Griner, president of the 315,000-member American Federation of Government Employes (AFGE), the largest union in the Federal Government. Mr. Griner, a vice president of the AFL–CIO, has taken a hard line against strikes. "It puts him in a horrible position if the Administration doesn't enforce the law," says one Government expert on labor relations. "He's got to have support."

Mr. Griner himself says he has no intention of abandoning his opposition to strikes by Government workers. But he insists "it's difficult to keep the postal strike from spilling over" into the AFGE jurisdiction, "especially in New York City," where the mail strike started last week.

One sign of the growing militancy of Uncle Sam's work force is the speed with which it has embraced unionism since 1962. In that year President Kennedy signed an Executive Order for the first time directing Government agencies and departments to recognize and bargain with unions.

At last count, some 1.4 million workers—52% of the Federal civilian work force—were represented by unions, up from only 670,000 eight years ago. Most of the recent recruits have been white-collar workers.

As the Federal-employe unions have grown they have become increasingly critical of the way the Government handles its labor relations. Union leaders have frequently attacked the Civil Service Commission for a "paternalistic" attitude.

On the key issue of wages, the Federal-employe unions can't engage in collective bargaining. To seek raises for white-collar and postal employes, the unions must lobby on Capitol Hill; for blue-collar workers, they must present their cases to independent wage boards that hand down binding decisions.

THE SYSTEM BREAKS DOWN

In the past, the postal unions and other Federal-employe organizations have enjoyed a cozy relationship with Congress. But in the current postal dispute the system broke down.

Indeed, the most immediate cause of the postal strike was the frustration of the letter carriers as they watched bills to boost their wages by anywhere from 5.4% to 11.1% become entangled in the Administration's battle in Congress to reorganize the postal system.

The Administration's postal reform bill would generally free the Post Office from Congressional control and set up a corporation-like body to run the mails. Under the bill, sent to Congress last May, the Post Office could set postal rates, borrow up to $10 billion for postal construction and modernization and bargain with postal unions over wages and working conditions.

Postal officials maintain that if the unions had been able to negotiate with postal management as they would under the reorganization proposal, the current work stoppage wouldn't have occurred. But some observers believe that with a postal corporation strikes might be more likely, since the onus of striking directly against the Government would be removed; the reform bill would specifically bar walkouts, however.

UNION OPPOSITION

At first, the bill's chances appeared slim. The postal unions opposed it because they feared loss of their influence on Capitol Hill. Both Gale McGee, the Wyoming Democrat who heads the Senate Post Office Committee, and Thaddeus Dulski, the New York Democrat who heads the House Post Office Committee, preferred other reform plans that would leave more control with Congress. In October, the House committee voted to reject the Administration proposal, apparently killing it.

However, the issue of a postal pay raise remained very much alive. A bill sponsored by Democratic Rep. Morris Udall of Arizona providing a general pay raise for postal wrokers was passed by the House on October 14.

The Udall bill would have provided postal workers an 11.1% pay boost in 1970. Equally important, it would have reduced to eight years from 21 years the time required to reach the top pay grade, which calls for $8,442 annually under current scales. And it would have established a commission that would propose future pay adjustments for all Government workers to keep their pay comparable to the private sector.

President Nixon subsequently announced he would veto the bill, maintaining that it was inflationary and that the new pay-setting machinery was cumbersome. The Senate then passed a less generous pay bill which would have provided increases of up to 7% for all white-collar and postal employes this year. But the unions wanted more.

Thus, by late last year there was a standoff. The unions, in effect, held a veto over the Administration's reform plans while the President had vowed to veto the House-passed pay bill.

Against this backdrop, James Rademacher, president of the National Association of Letter Carriers—the union that started the nationwide walkout by striking in New York—met with White House officials in December. Together, with the help of Mr. Udall, they roughed out a compromise package that included the Administration's reform plan, a 5.4% pay increase and a key promise that postal workers in addition would get any

general percentage boost given to other Government workers in 1970 or 1971.

ADDING SWEETENERS

This compromise got nowhere at the outset. Congressional leaders were miffed that it was drafted "in secret" at the White House. And except for the letter carriers, the postal unions opposed the plan.

However, in a surprise vote two weeks ago, the House Post Office Committee approved a slightly modified version of the plan worked out at the White House for combining postal reform and a pay raise. One reason was the injection of sweeteners that made the measure more palatable to the postal unions. A key change: Inclusion of the reduction to eight years in the time needed to reach the top pay grade.

The Senate Post Office Committee then began work on similar legislation, and just when the strike hit there was a growing feeling in Congress that the whole package might have been enacted within about 60 days. Nonetheless, some postal union members were fed up with what they saw as constant, almost endless delays.

"Ironically," says Mr. Udall, "the militants in the big cities reached the flash point just at the time the ice was beginning to melt."

Besides the pay-raise delay, there were many other factors that led to the postal strike—factors with which Federal officials must contend if they are to prevent strikes by non-postal employees.

It is both significant—and ominous—that the mail strike began in New York City. There the postal workers had first-hand examples of the effectiveness of illegal walkouts by public employes. It was in New York that the AFL–CIO American Federation of Teachers used strikes to build the union and increase salaries. It was also in New York that the garbage workers walked out in 1968 and got results; today their top pay, reached after only three years on the job, is $9,871 annually.

Washington officials especially Labor Secretary George Shultz, have long talked of the need to come up with new procedures for averting public-employe disputes at the state and city level. Now that it is clear such disputes can lead to Federal-worker walkouts, more attention may be paid to helping state and city governments solve their labor-relations problems.

LISTENING TO COMPLAINTS

At any rate, AFGE President Griner believes the postal walkout will produce a new responsiveness within the bureaucracy to legitimate grievances of Federal workers. The strike, he says, will "cause department heads to listen more readily to some of our justified complaints."

While the AFGE and other federal-employe unions can't bargain over wages, they do sit down with management to negotiate such issues as working conditions, grievance procedures and training and promotion opportunities.

The Nixon Administration hasn't been unaware of or unresponsive to the growing restlessness in the civil service ranks. Last October President Nixon issued an Executive Order, which became effective Jan. 1, that replaced the 1962 Kennedy order governing the relationship between Uncle Sam and the Federal-employe unions.

The new order, among other things, established a Federal Labor Relations Council, headed by the chairman of the Civil Service Commission; the council decides appeals on such matters as what issues are subject to negotiation and what is a proper unit for union representation. The order also set up new procedures for resolving deadlocked negotiations.

But the order provides no machinery for resolving the postal strike because such walkouts are illegal and aren't supposed to occur.

The Executive Order and present laws does provide penalties for Federal-employe strikes—including fines and jail for workers and the loss of recognition and the automatic dues checkoff for unions.

Yet fines and jail or lifted recognition can't get the mail moving again. So Mr. Nixon, Postmaster General Winton Blount and Labor Secretary Shultz have avoided threatening such action. The lack of such talk, some labor experts fear, may embolden other Federal-employee unions to consider strikes against the Government.

POSTHUMOUS AWARD OF MEDAL OF HONOR TO PFC. DAVID P. NASH, OF KENTUCKY

Mr. COOPER. Mr. President, I join in the the statement of my colleague from Kentucky (Mr. COOK), in expressing pride that a fellow Kentuckian, David P. Nash, was today awarded posthumously the Medal of Honor. The medal was received from President Nixon by his father and mother, Mr. and Mrs. Ishmael Nash, Whitesville, Ky., with two of their sons in attendance. The citation to Pfc. David P. Nash, 19 years of age, gives eloquent testimony of his bravery. I ask unanimous consent that the citation and the criteria for the award be printed in the RECORD. The Nation has expressed as best it can, its appreciation of the service of David Nash, to his country.

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

CITATION

The President of the United States of America, authorized by Act of Congress, March 3, 1863, has awarded in the name of The Congress the Medal of Honor posthumously to Private First Class David P. Nash, United States Army, for conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty:

Private First Class David P. Nash distinguished himself on 29 December 1968 while serving as a grenadier with Company B, 2d Battalion, 39th Infantry, 9th Infantry Division in Giao Duc District of Dinh Tuong Province, Republic of Vietnam. When an ambush patrol of which he was a member suddenly came under intense attack before reaching its destination, he was the first to return the enemy fire. Taking an exposed location, Private Nash suppressed the hostile fusillade with a rapid series of rounds from his grenade launcher, enabling artillery fire to be adjusted on the enemy. After the foe had been routed, his small element continued to the ambush site where he established a position with three fellow soldiers on a narrow dike. Shortly past midnight, while Private Nash and a comrade kept watch and the two other men took their turn sleeping, an enemy grenade wounded two soldiers in the adjacent position. Seconds later, Private Nash saw another grenade land only a few feet from his own position. Although he could have escaped harm by rolling down the other side of the dike, he shouted a warning to his comrades and leaped upon the lethal explosive. Absorbing the blast with his own body, he saved the lives of the three men in the area at the sacrifice of his own. By his conspicuous gallantry at the cost of his own life in the highest traditions of the military service, Private Nash has reflected great credit on himself, his unit and the United States Army.

CRITERIA FOR AWARD

The Medal of Honor, established by Joint Resolution of Congress 12 July 1862 (amended by Act of 9 July 1918 and Act of 25 July 1963) is awarded in the name of Congress to a person who, while a member of the Armed Forces, distinguishes himself conspicuously by gallantry and intrepidity at the risk of his life about and beyond the call of duty while engaged in an action against an enemy of the United States, while engaged in military operations involving conflict with an opposing foreign force; or while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party. The deed performed must have been one of personal bravery or self-sacrifice so conspicuous as to clearly distinguish the individual above his comrades and must have involved risk of life. Incontestable proof of the performance of service is exacted and each recommendation for award of this decoration is considered on the standard of extraordinary merit. Eligibility is limited to members of the Armed Forces of the United States in active Federal military service.

ENVIRONMENT: MAN'S ULTIMATE RACE WITH DEATH

Mr. MONTOYA. Mr. President, on April 22, Earth Day, a national environmental teach-in will be held across the Nation. This is the first continent-spanning, organized effort to fling back the tide of pollution and ecological imbalance which threatens humanity today. Recognizing the immediacy of our peril, it is a primary, belated effort to save man from himself. I endorse this environmental teach-in, and pray it will serve as a springboard for a no-nonsense, no-compromise attack across the Nation on pollution and polluters. Necessary laws are on the books, only awaiting the hand of proper enforcement. Each moment we delay compounds our peril. It is to our shame and the young people's credit that they are taking the lead in calling attention to our proximity to total disaster.

Many have indulged in antipollution rhetoric. Yet we have long known of this menace. Sitting on the Air and Water Pollution Subcommittee of the Senate Public Works Committee since 1965, I have seen and heard testimony and evidence that beggars capsulized description. We have put law after law on the books, yet the States, and too often the National Government, have been loathe to enforce them. Now there is no choice. It is a matter of survival or death for society.

Conservation groups, those marvelously dedicated and selfless organizations, have stood alone in the path of a juggernaut labeled "Progress at Any Price." People laughed at or ignored them. They called them "nature nuts." Well, those "nature nuts" were right all along. It was the rest of society, which chose to ignore them, that was in error.

When we fouled our waters with pesticides, human wastes, industrial filth, and a dozen other forms of garbage, society looked the other way. As millions of autos spewed lead into the air over our cities, we put it off as a threat that would never materialize in full. As our own garbage piled up around us in mountains, we made jokes about how we could utilize it for recreation or for artificial reefs to encourage fishing. Now we face extermi-

nation and slow death by our own polluting hands because of what we have done to nature. Only swift realization and instant action will save us from the fruits of our own folly over the years.

There is $25 billion for Vietnam, but how much for clean air and water? There is money for weaponry, but how much for an end to pollution? There is cash for foreign aid, but how much for disposal of waste and sewage?

We must take punitive action against all polluters. If a factory is polluting a stream, lake or the air above it—enforce the laws on the books—immediately and without favoritism, foot-dragging or drawn-out negotiations.

If a municipality dumps sewage into any body of water, shut off all forms of Government aid to it. If autos are not built to control pollution by leaded gasoline, prohibit their licensing. If a company dumps filth by nonobservance of antipollution laws, make them pay every penny of the cleanup expense; then hit them with fines or closings that will make corporate teeth rattle.

Close the polluters. Make examples of them. But above all, let us act. Industry can come up with containers that disintegrate. Cities can build waste disposal and sewer treatment plants that will do the job.

Our young people who are conducting Earth Day are out in front. Others should have been out there setting the pace. Many have not. Where have the Governors of States been? Where have major organs of the Federal Government been? Behind and silent. Me-tooing and echoing. Doing little, if anything, on what is probably the worst immediate menace we all face.

Now that the young people have shown us the way, the rest of the Nation must become activist-minded. We must join hands with young people on our campuses and conservation organizations. The Sierra Club, National Audubon Society, Wilderness Society, Friends of the Earth, League of Conservation Voters, League of Woman Voters, Nature Conservancy, Environmental Defense Fund, and Izaac Walton League are our natural allies.

Mr. President, the quality of human life has been rendered loud lipservice recently, often by many who have turned it into a catch-phrase. Yet we must really ask ourselves whether we can do without the flashes of beauty, quiet and vastness which we have trampled upon so cavalierly for so long. We must fully realize that nature will turn upon us like a tormented beast and rend us limb from limb if we do not cease torturing her.

I fervently hope the environmental teach-in, Earth Day, on April 22, is successful in arousing tens of thousands of Americans to lasting action of the most substantial sort. My State of New Mexico has much to gain. We are one of the last places left in the Nation with first-class natural resources. Our air is still clean—relatively. Our water is still pure—relatively. Our land is free of garbage and junk—relatively. The teach-in lights our way. Let us follow the path.

THE GROWING USE OF DRUGS

Mr. MURPHY. Mr. President, I have been very much concerned with the growing use of drugs in the country. I received a letter from Richard and Fred Paolini who sent a copy of the San Francisco Examiner of February 16, which headlined a tragic death of their brother. Their brother, Nicholas G. Paolini, was 21 years of age and, according to the article, he was "big, good-looking, smart, and a gifted musician. He was a junior in business administration at the University of San Francisco where he had started on a baseball scholarship." He was an outstanding high school student before going on to San Francisco State; outstanding athlete, vice president of the student body and a solid-B student. Yet, as the article stated, this "Youth with everything chose death." Why, Mr. President, do our youngsters continue their infatuation with narcotics and drugs? The coroner's report for the youth indicated that he was on LSD. Certainly, this is a tragic way to end a promising life and I certainly extend my condolences to the family. I congratulate the family, however, for their wanting to make these facts known to as many people as possible so that other promising lives will not be snuffed out at such an early stage.

The brothers in their letter said:

We shudder to think that there are some elected officials even considering the legalization of marijuana. We hope this article about our brother is read by these uninformed officials, for Nickie is a classic example of one who began with marijuana.

I ask unanimous consent that the article from the San Francisco Examiner be printed in the RECORD in the hope that this needless death will deter youngsters from any adventures with the drugs.

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

[From the San Francisco Examiner, Feb. 16, 1970]

YOUTH WITH EVERYTHING CHOSE DEATH

(By Larry Hatfield)

Nicholas G. Paolini at 21 should have had it made.

Big, good-looking, smart and a gifted musician, he appeared to have everything he could want.

He was a junior in business administration at the University of San Francisco, where he had started on a baseball scholarship. He went to USF after graduating from St. Ignatius High School where he was an All City baseball catcher and captain of the team, vice president of the student body, a football player and a solid-B student.

Nickie, as his friends and family called him, had a family who loved him if they never entirely understood him. "He was a very, very good boy," his father, Fedrico, said. "He was a loving son, a wonderful baby," his mother, Amelia, said.

But Nickie was hung up on drugs.

Wednesday, at 12 minutes after 9 in the morning, Nickie Paolini climbed to the 15th floor of a downtown office building, broke into a vacant office and jumped to his death.

A coroner's report indicated he was on LSD.

Nickie's family told his story to The Examiner this weekend in the hope it might save some youngster from following the same drug-tortured path Nickie did and save some other family the anguish they are suffering now.

"We've got to save the children," said the bereaved Mrs. Paolini, clutching a yellowed clipping of her youngest son's baseball exploits to her.

She and her husband, a retired fisherman, are bewildered at what happened to their son but it has convinced them that the government should spend more on meeting the drug problem and less on Vietnam and going to the moon.

"This government has to do something to save the other kids," said Mrs. Paolini through her tears.

A few days before Nickie's death, she had written a long letter to Governor Reagan urging action to meet the problem of drugs and youth. The letter was never sent and she and her husband doubt whether it would have done any good anyway.

"A JUNGLE"

"Everybody talks about it (the drug problem)," said Paolini, "but nobody does anything about it."

"We loved this country, we loved it so much," his wife said, remembering that she and her husband first came here in 1927. "Now I don't love it any more. It has taken my baby."

"It's a jungle," her husband said in the same rapid Italian-laced English. "We have to fight for saving the kids." Both grieving parents said the government should not go to Vietnam "to kill the kids" but should do something to keep them from killing themselves here.

They urged parents not to fall into the trap of believing their children are not taking or would not take drugs. "The parents are the last to know," said Nickie's father. "We found out our boy was no good anymore . . . too late. People should watch their children . . . help them."

BLAMES PROFESSORS

Nickie's oldest brother, Fred 35, a San Rafael real estate man, blames pot-smoking and "militant, left-wing" professors at the universities.

"The professors just barrage these kids with the heavy problems of the world," he said. "These kids are carrying all the problems of the world on their shoulders. It throws them."

Attempting to keep the bitterness out of his voice, Fred Paolini traced his little brother's fall into the drug world. It started with pot in his senior year in high school and went on to other drugs as he found "new friends" at USF.

"BRAINWASHING"

"He was very free about it . . . he defended it," he said, adding that Nickie was heavily influenced by the "people in Berkeley" who defend drug use and champion New Left causes. "It was like a crusade with Nickie. He'd say pot and LSD were the greatest things in the world. It was like a carbon copy. All these kids have a canned pitch and it's like a recording."

He said professors and others are "brainwashing" youngsters and "a lot of them aren't ready to take it."

His wife, Barbara, spoke of the family's quietly desperate efforts to help him. "He loved them all so much, he didn't want to hurt anybody. The minute (his father) tried to help, Nickie turned off."

She also said he had given up his music—he was a songwriter under contract to a Los Angeles agent—because his parents thought his associates in the music world were leading him to drugs.

MET FRIENDS

Two weeks ago, Nickie got a passport. He was going to his parents' homeland—"Maybe that's what I need to do," he had said—in a move his family hoped vainly would help. "As long as it takes to make him well," his father said of the length of his stay in Italy.

But whatever the hopes of both Nickie and his family, something else happened last Wednesday morning when he refused his father's offer of a ride to USF and went around with some of his new drug-world friends. An hour or so later, he was dead.

Those friends were not at the funeral mass Friday. Nickie's casket was carried by some of his old baseball teammates.

POSTAL PAY RAISES

Mr. McGEE. Mr. President, I ask unanimous consent to have printed in the RECORD an article in this morning's Washington Post relating to the problems of giving pay raises to our postal workers, and some aspects of the problem which the general public might not be familiar with. Mr. Murray Seeger has written a perceptive and, to my knowledge, an accurate report on the situation.

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

PACT BY NIXON, UNION LEADER REBOUNDS TO EMBARRASS BOTH

(By Murray Seeger)

Early on the evening of Dec. 5, James D. Rademacher, the natty, articulate and ambitious president of the National Association of Letter Carriers, was secretly ushered into the White House to meet with aides of President Nixon.

To Rademacher's surprise, Mr. Nixon joined the conversation and suggested they be photographed together to record the meeting. At the subsequent conference, a deal was made that has now exploded into the nation's first post office strike to the deep embarrassment of both participants in the conference.

Rademacher left the White House convinced he had successfully bypassed Postmaster General Winton M. Blount and assured a sizable pay increase for the 200,000 members of his union as well as other workers in the Post Office Department.

Rademacher's position as the leader of the seven major postal unions seemed secure and it was possible he would be recognized as top leader of all the rapidly growing unions representing federal workers.

For Mr. Nixon, the evening's agreement, which became known a few weeks later, meant crucial labor support to get the embattled reform plan for the Post Office out of the House Post Office Committee, which had blocked it. He agreed to approve a sizable pay increase if it were tied directly to a bill taking the department out of his Cabinet and its chronic deficits out of the federal budget.

Now, four months after their meeting, the two have found out how badly they miscalculated.

Rademacher is fighting to survive as head of his union in face of opposition in major cities where letter carriers have defied return-to-work orders by him and the President.

Mr. Nixon has lost nearly all hope for getting a postal reform law from Congress this year as well as the postal rate increase he sought.

His hair-thin budget surplus for the current fiscal year and for the next one are jeopardized, because the apparent solution to the postal strike will be a big pay increase that in domino fashion will lead to approval of pay increases for 3.5 million other federal employees and military personnel.

The postal unions are the oldest and most firmly entrenched of the federal employee unions. Rademacher was the only postal union official to endorse The President's plan for reforming the Post Office Department. When this bold step did not produce the pay raise his members have been waiting for since October, Rademacher found key locals abandoning him.

One labor source, who declined to be identified but is generally sympathetic to Rademacher, saw the situation this way:

"Jim is about 100 yards behind his members instead of being out in front where a leader should be. He got too close to Nixon in this case and that's the wrong place for a labor leader to be."

GROWING MILITANCY

Both Mr. Nixon and Rademacher have been overrun by the sweep of militancy among all public employees. This movement has been most conspicuous at the city level, where strikes have been staged by every kind of worker from doctors to grave diggers—including firemen and policemen.

In 1958 there were 15 public employee strikes involving 1,720 workers. In 1968, there were 254 public employee strikes involving 201,800 workers.

While seven unions have national agreements with the Post Office Department and four others are recognized as bargaining agents, the letter carriers are considered the most politically effective.

This union is the only one with its jurisdiction almost entirely organized coast-to-coast.

The other union leaders resent Rademacher's solo dealing with the President. The campaign to get the postal reform bill became a tussle between Rademacher's union and the administration on one side and the six other unions on the other.

COMMITTEE IS SPLIT

As a result the House Post Office Committee was badly split.

A modified reform bill was approved by the House committee but has not been considered on the floor. A postal salary bill did pass the House and Senate in different forms but no action has been taken to put it into final form.

Rademacher, who was disappointed not to be named a vice president of the AFL–CIO in February, had been talking about taking his union into the new rival labor federation, the American Labor Alliance, whose chief members are the United Auto Workers and the International Brotherhood of Teamsters. His plans may be changed, too.

In New York the other day, members of Rademacher's union were calling their president "rat-maker" and shouting, "Let's throw him out."

IMPACT OF COST-OF-LIVING INCREASE ON LIFE STYLE OF THE AMERICAN FAMILY

Mr. MONTOYA. Mr. President, a well-known research organization, Leo J. Shapiro and Associates, Inc., of Chicago, Ill., in reporting results of a recent study it conducted on behalf of the Executive Fund Life Insurance Company of Omaha, Nebr., brought to my attention some findings that are sufficiently disturbing that they should be made public.

In this study, the research organization examined how the continued increase in the cost of living has affected the life style of the American family.

The research organization did not go into the very large areas of urban density, but confined their examination and studied 204 families closer to "Main Street, U.S.A.," in Birmingham, Ala., and Toledo, Ohio.

After reading the report, I am left with the conclusion that inflation and the erosion of the dollar are having the most disastrous effect on the way people live and on forcing middle-class Americans to abandon those inherited standards which we have come to identify with affluent America.

When one reads this study, one is driven to ask, What is affluence? and Who really now enjoys affluence?

I have extracted from the study some illustrative tables which show, indeed, that for the majority of American families inflation is an ever-present reality which intrudes on family life and which forces the heads of families to revise their way of life in order to survive the unabated increases in consumer costs. These tables are as follows:

How concerned are you about the cost of living?

	(204)
All respondents	100%
Very concerned	75
Somewhat concerned	19
Not too concerned	5
Not Reporting	1

About half of the homes felt that they had begun to do something about rising prices. Two kinds of responses were evident. Some families reported that they were trying to reduce expenditures by cutting down on what they buy, and the most frequent purchasing reductions were reported for food items. It appeared that these families had begun to distinguish between the "necessary" and "unnecessary" and were trying to restrict expenditures to necessary purchases. They described their effort in such terms as "buying necessities only," "budgeting," and "no more charging."

A second consumer strategy was an effort to shop more carefully. This did not consist so much of giving up or reducing consumption, but of finding ways to buy the same for less, for example, buying private label as opposed to branded items.

In addition to these two major strategies, it appeared that a small percentage of respondents were responding to inflation by attempting to increase their income, by working longer hours or taking an extra job. Another form of working more was to do jobs at home, your own sewing or home repairs.

Has your family tried to do anything yet about the cost of living?

	(204)
All respondents	100%
Have not tried to do something	48
Have tried to do something	52
All respondents who have tried to do something	100%
Cut down on buying (all mentioning)	38
Specifically on food	24
Watch prices	30
Buy necessities only	21
Eliminate charging	88
Budget	7

Work, take an extra job	6
Do-it-yourself, sew clothes, home repairs	1
Read consumer publications	2

On the whole, husbands and wives appear to be well coordinated in their response to inflation. They describe their approach to inflation in much the same terms. To the extent that differences in their efforts appear, they show that women more often than men are attempting to do without. This may reflect the larger role of the wife in day-to-day purchasing for the household. It may also reflect a feeling among women that they have exhausted opportunities to save by shopping more carefully and are thus beginning to curb their consumption. In contrast to their wives' greater effort to "cut down" men are frequently reported that their families were watching prices and that they were trying to increase their family's income.

[In percent]

	Men	Women
Total All respondents	(97) 100	(107) 100
Have tried to do something about inflation:		
Yes	52	52
No	48	48
All who have tried to do something about inflation	52	52
Total	100	100
Cut down on buying (all mentioning)	34	41
Specifically on food	24	25
Watch prices	32	28
Buy necessities only	18	23
Eliminate charging	6	9
Budget	8	5
Work	8	4
Do-it-yourself, sew clothes, home repairs		
Read consumer publications	2	2

Within this context of discussion, the subject of life insurance was introduced. The question was asked, "Does the family need to increase its life insurance to restore protection eroded by inflation?" In answer to this question:

Fifty-three percent said yes.

Thirty-two percent said no.

Fifteen percent said they did not know or did not answer.

Husbands were more likely than wives to agree that life insurance should be increased because of inflation. This difference is consistent with the greater effort of women to reduce expenditures and with the contrastingly greater effort by men to increase their family's income.

[In percent]

	All	Men	Women
Total All respondents	(204) 100	(97) 100	(107) 100
Need to increase life insurance	53	58	49
Do not need to increase life insurance	32	27	37
Not reporting	15	15	15

This contrast comes into even sharper focus among homes who say they are taking positive action against the rising cost of living. Among men who say that they are trying to do something about inflation, 62 percent agree that life insurance should be increased.

[In percent]

		Men	
	All	Doing something about the cost of living	Not yet doing anything about the cost of living
Total All respondents	(107) 100	(56) 100	(51) 100
Need to increase life insurance	49	48	49
Do not need to increase life insurance	37	39	35
Not reporting	14	13	16

Overriding these differences, however, is the acceptance by major segments of the population of the proposition that inflation disturbs a family's life insurance protection and, therefore, justifies buying more life insurance. Although the context in which this subject was introduced during this interview may have aided affirmative response, the high level of that response indicates that life insurance is not a target for reducing expenditures.

For nearly 2 years we have been listening to plans and promises offered by the administration to halt inflation and to restore some semblance of stability to the average family's economic well-being. Instead of witnessing any realization of its plans and promises all we have seen is the opposite: In 1968 and 1969 the Consumer Price Index rose by more than 11 percent, and there is no indication that 1970 will see a reversal of this trend. The result is that families are descending into a lower standard of living and that their previous life styles are undergoing significant changes due to their inability to make both ends meet.

Families are placing great reliance on the advice of consumer publications, services, and organizations for guidelines on how to buy what they need at prices they can manage within their household budgets. One company is now mailing to hundreds of thousands of families a consumer service called Money Monthly, which offers advice on how to live better for less. This service reflects the prevailing desire throughout the country to find ways of escaping the pressure of high costs without descending into a lower standard of living.

There is one saving grace in this economic bind. It is the appearance of new and ingenious methods, developed and invented by various American companies, to reduce consumer costs by new techniques of distribution, new ways of packaging and new product development.

One such innovation has been brought into being by Executive Fund Life Insurance Co., which is offering life insurance of all forms through direct marketing methods. This form of direct selling reduces sales costs and makes it possible for the company to lower the premium costs.

Other companies are serving the traditional American markets with nonbranded or private brand goods, in which the sales price to consumers is lower than the well-advertised brand names, because the price does not have to include the cost of advertising.

But, despite the ingenuity of some American companies, the prevailing trend is toward progressively increased prices for all those goods and services which have come to be associated with the American standard of living. This is the aspect of American life which is now menaced by inflation, a condition I submit, which cannot be tolerated by the American people for too much longer.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ALLEN). Is there further morning business? If not, morning business is concluded.

HOSPITAL AND MEDICAL FACILITIES CONSTRUCTION AND MODERNIZATION AMENDMENTS OF 1969

The PRESIDING OFFICER (Mr. ALLEN). At this time, in accordance with the previous unanimous-consent agreement, the pending business will be temporarily laid aside and the Senate will now proceed to the consideration of Calendar No. 650, H.R. 11102, the hospital and medical facilities construction and modernization amendments of 1969, which the clerk will please report.

The BILL CLERK. A bill, H.R. 11102, to amend the provisions of the Public Health Service Act relating to the construction and modernization of hospitals and other medical facilities by providing separate authorizations of appropriations for new construction and for modernization of facilities, authorizing Federal guarantees of loans for such construction and modernization and Federal payment of part of the interest thereon, authorizing grants for modernization of emergency rooms of general hospitals, and extending and making other improvements in the program authorized by these provisions.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Hospital and Medical Facilities Construction and Modernization Amendments of 1969".

TITLE I—GRANTS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

PART A—EXTENSION OF GRANT PROGRAM AUTHORIZATION OF APPROPRIATIONS FOR CONSTRUCTION GRANTS

SEC. 101. (a) Section 601 of the Public Health Service Act (42 U.S.C. 219a) is amended—

(1) by striking out "next five" in paragraph (a) and inserting in lieu thereof "next ten";

(2) (A) by striking out "$70,000,000" in subparagraph (1) of paragraph (a) and inserting in lieu thereof "$100,000,000",

(B) by striking out "$20,000,000" in sub-

paragraph (2) of such paragraph and inserting in lieu thereof "$40,000,000", and

(C) by striking out "$10,000,000" in subparagraph (3) of such paragraph and inserting in lieu thereof "$15,000,000"; and

(3) by striking out in paragraph (B) "and $195,000,000 for the fiscal year ending June 30, 1970." and inserting in lieu thereof "$195,000,000 for the fiscal year ending June 30, 1970, $160,000,000 for the fiscal year ending June 30, 1971, $170,000,000 for the fiscal year ending June 30, 1972, $180,000,000 for the fiscal year ending June 30, 1973, $190,000,000 for the fiscal year ending June 30, 1974, and $200,000,000 for the fiscal year ending June 30, 1975; and".

(b) The amendments made by subsection (a) shall take effect with respect to appropriations made under such section 601 for fiscal years beginning after June 30, 1970.

AUTHORIZATION OF APPROPRIATIONS FOR MODERNIZATION GRANTS

SEC. 102. (a) Effective with respect to appropriations made under section 601 of the Public Health Service Act for fiscal years beginning after June 30, 1970, such section is further amended—

(1) by striking out in paragraph (b) the following: "and for grants for modernization of such facilities and the facilities referred to in paragraph (a)";

(2) by adding after paragraph (b) the following new paragraph:

"(c) for grants for modernization of the facilities referred to in paragraphs (a) and (b), $75,000,000 for the fiscal year ending June 30, 1971, $95,000,000 for the fiscal year ending June 30, 1972, $105,000,000 for the fiscal year ending June 30, 1973, $115,000,000 for the fiscal year ending June 30, 1974, and $125,000,000 for the fiscal year ending June 30, 1975."; and

(3) by inserting "AND MODERNIZATION" after "CONSTRUCTION" in the section heading.

(b) Effective with respect to allotments from appropriations made under such section 601 for fiscal years beginning after June 30, 1970, section 602(a) of such Act (42 U.S.C. 291b) is amended—

(1) by striking out "the new hospital portion of" the first time it appears in paragraph (1),

(2) by striking out the last sentence of paragraph (1), and

(3) by amending paragraph (2) to read as follows:

"(2) For each fiscal year beginning after June 30, 1970, the Secretary shall, in accordance with regulations, make allotments among the States for grants for modernization of the facilities referred to in section 601. Such allotments shall be made from the sums appropriated under paragraph (c) of section 601, and shall be made among the States on the basis of the population, the financial need, and the extent of the need for modernization of such facilities, of the respective States."

(c)(1) Section 602(e) of such Act is amended by (A) redesignating paragraphs (1), (2), and (3) thereof as paragraphs (2), (3), and (4), respectively, and by inserting at the beginning thereof the following new paragraph (1):

"(1) Upon the request of any State that a specified portion of any allotment of such State under subsection (a) for any fiscal year be added to any other allotment or allotments for such State under such subsection for such year, the Secretary shall promptly (but after application of subsection (b)) adjust the allotments of such State in accordance with such request and shall notify the State agency; except that the aggregate of the portions so transferred from an allotment for a fiscal year may not exceed the amount specified with respect to such allotment in clause (A), (B), or (C), as the case may be, of subsection (b)(1) which is applicable to such State."

(2) Paragraph (1) of section 602(e) of such Act (redesignated as paragraph (2) by paragraph (1) of this subsection) is amended by striking out "Upon" and inserting in lieu thereof "In addition to the transfer of portions of allotments under paragraph (1), upon".

(3) Paragraph (2) of section 602(e) of such Act (redesignated as paragraph (3) by paragraph (1) of this subsection) is amended—

(A) by striking out "In addition to the transfer of portions of allotments under paragraph (1)" and inserting in lieu thereof "In addition to the transfers of portions of allotments under paragraphs (1) and (2)", and

(B) by striking out "; except that" and all that follows in such paragraph and inserting in lieu thereof a period.

(4) Paragraph (3) of section 602(e) of such Act (redesignated as paragraph (4) by paragraph (1) of this subsection) is amended by striking out "(1) or (2)" and inserting in lieu thereof "(1), (2), or (3)".

(5) The amendments made by the preceding provisions of this subsection shall be effective with respect to allotments from appropriations made under section 601 of the Public Health Service Act for fiscal years beginning after June 30, 1970.

(d) Effective with respect to allotments from appropriations made under such section 601 for fiscal years beginning after June 30, 1970, section 602(b)(1) of such Act is amended by—

(1) striking out "$25,000" and "$50,000" in subparagraph (A) and inserting in lieu thereof "$50,000" and "$100,000", respectively;

(2) striking out "$50,000" and "$100,000" in subparagraph (B) and inserting in lieu thereof "$100,000" and "$200,000", respectively;

(3) striking out "$100,000" and "$200,000" in subparagraph (C) and inserting in lieu thereof "$200,000" and "$300,000", respectively.

(e) Effective with respect to grants from such appropriations, so much of subsection (b)(1) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) as precedes subparagraph (A) as amended by inserting "or (c)" after "paragraph (b)".

PART B—OPERATION OF GRANT PROGRAM

PRIORITY OF PROJECTS

SEC. 110. Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1970, section 603(a) of such Act (42 U.S.C. 291c) is amended—

(1) by striking out "rural communities and areas with relatively small financial resources" in clause (1), and inserting in lieu thereof "areas with relatively small financial resources and, at the option of the State, rural communities",

(2) by striking out "and" at the end of clause (2) and

(3) by adding after clause (3) the following new clauses:

"(4) in the case of projects for construction or modernization of general hospitals, to any general hospital (A) which is considered, under the first sentence of section 1861(l) of the Social Security Act, to have in effect a transfer agreement (with an extended care facility), or (B) with respect to which there is reasonable assurance that services of a long-term care facility will be available, either through a facility of the applicant for the project or a facility with which the applicant is affiliated (to the extent and in the manner determined in accordance with regulations), to patients of such hospital who no longer need care in such hospital but require the services of a long-term care facility;

"(5) in the case of projects for construction or modernization of outpatient facilities, to any outpatient facility that will be located in, and provide services for residents of, an area determined by the Secretary to be a rural or urban poverty area;

"(6) to projects for facilities which, alone or in conjunction with other facilities, will provide comprehensive health care, including outpatient and preventive care as well as hospitalization, particularly projects for facilities which will serve a defined population; and

"(7) in the case of projects for construction or modernization of facilities, to facilities, which will provide training in health or allied health professions;

"(8) in the case of projects for construction or modernization of facilities, to facilities which will provide to a significant extent, for the treatment of alcoholism;

"(9) to the extent deemed feasible by the State agency, to projects for facilities, to replace hospital facilities operated by departments of State, county, and local governments;".

AREAWIDE HEALTH PLANNING AGENCIES

SEC. 111. Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1970, clause (4) of the first sentence of section 605(b) of such Act (42 U.S.C. 291e) is amended (1) by inserting after "the application has been approved and recommended by the State agency" the following: ", opportunity has been provided, prior to such approval and recommendation, for consideration of the project by the public or nonprofit private agency or organization (if any) which has developed the comprehensive regional, metropolitan area, or other local area plan or plans referred to in section 314(b) covering the area in which such project is to be located,"; and (2) by inserting "the application is for a project which" immediately before "is entitled".

PORTION OF ALLOTMENT AVAILABLE FOR STATE PLAN ADMINISTRATION

SEC. 112. Effective with respect to expenditures under a State plan approved under title VI of the Public Health Service Act which are made for administration of such plan during any fiscal year beginning after June 30, 1970—

(1) the first sentence of subsection (c)(1) of section 606 of such Act (42 U.S.C. 291f) is amended (A) by striking out "2 per centum" and inserting in lieu thereof "4 per centum" and (B) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) paragraph (2) of subsection (c) of such section 606 is amended by striking out "June 30, 1964" and inserting in lieu thereof "June 30, 1970".

FEDERAL SHARE

SEC. 113. Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1969, paragraph (b) of the section of such Act redesignated (by section 201 of this Act) as section 655 is amended by adding at the end thereof the following new sentence: "Notwithstanding the provisions of subparagraphs (1) and (2) of this paragraph, the Federal share shall, at the option of the State agency, be equal to the per centum provided under such subparagraphs plus an incentive per centum (which, when combined with the per centum provided under such subparagraphs shall not exceed 90 per centum) specified by the State agency in the case of projects that will provide services primarily for persons in an area determined by the Secretary to be a rural or urban poverty area and projects that offer potential for reducing health care costs through shared services among health care facilities, through interfacility cooperation, or through the construction or modernization of free-standing outpatient facilities."

DEFINITION OF HOSPITALS

SEC. 114. (a) Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1970, paragraph (c) of the section of such Act redesignated (by section 201 of this Act) as section 655 is amended—

(1) by inserting after "nurses' home facilities," the following: "extended care facilities, facilities related to programs for home health services, self-care units,"; and

(2) by inserting a comma immediately before "operated" and inserting immediately before "but does not include" the following: "and also includes education or training facilities for health professions personnel operated as an integral part of a hospital,".

(b) Effective July 1, 1970, section 604(a)(3) of such Act is amended—

(1) by inserting "(A)" after "shall include", and

(2) by inserting after "rehabilitation services, and" the following: "representatives particularly concerned with education or training of health professions personnel, and (B)".

CHANGE IN NAME AND CLARIFICATION OF FUNCTIONS OF DIAGNOSTIC OR TREATMENT CENTER

SEC. 115. (a) Sections 601(a)(2) and 602(b)(1)(B) of the Public Health Service Act (42 U.S.C. 291a, 291b) are each amended by striking out "diagnostic or treatment centers" and inserting in lieu thereof "outpatient facilities".

(b) Section 604(a)(4)(C) of such Act (42 U.S.C. 291d) is amended by striking out "diagnostic or treatment centers" and inserting in lieu thereof "outpatient facilities" and by striking out "such centers" and inserting in lieu thereof "such facilities".

(c) Section 604(a)(5) of such Act (42 U.S.C. 291d) is amended by striking out "diagnostic or treatment centers" and inserting in lieu thereof "outpatient facilities".

(d) Section 609(b) of such Act (42 U.S.C. 291i) is amended by striking out "diagnostic or treatment center" and inserting in lieu thereof "outpatient facility".

(e) Section 605(e) of such Act (42 U.S.C. 29(e)) is amended by—

(1) striking out "a diagnostic or treatment center" and inserting in lieu thereof "an outpatient facility", and

(2) inserting before the period at the end thereof "or which provides reasonable assurance that the services of a general hospital will be available to patients of such facility who are in need of hospital care".

(f) Paragraph (f) of the section of the Public Health Service Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) is amended—

(1) by striking out "diagnostic or treatment center" and inserting in lieu thereof "outpatient facility",

(2) by inserting after "means a facility" the following: "(located in or apart from a hospital)", and

(3) by inserting after "ambulatory patients" the following: "(including ambulatory inpatients)".

(g) The amendments made by subsection (e) and paragraphs (2) and (3) of subsection (f) of this section shall apply with respect to applications approved under title VI of such Act after June 30, 1970.

DEFINITION OF FACILITY FOR LONG-TERM CARE

SEC. 116. Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1970, paragraph (h) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) is amended by inserting after "means a facility" the following: "(including an extended care facility)".

INCLUSION OF COST OF ACQUISITION OF LAND

SEC. 117. Effective with respect to projects approved under title VI of the Public Health Service Act after June 30, 1970, so much of paragraph (1) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) as follows the semicolon is amended to read: "including architect's fees and the cost of the acquisition of land, but excluding the cost of offsite improvements."

GRANTS FOR EQUIPMENT

SEC. 118. Effective with respect to projects approved under title VI of the Public Health Service Act after June 30, 1970, paragraph (1) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) is further amended by inserting before the semicolon "and, in any case in which it will help to provide a service not previously provided in the community, equipment of any buildings".

TITLE TO SITE

SEC. 119. Effective with respect to projects approved under title VI of the Public Health Service Act after June 30, 1970, paragraph (1) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) is further amended by striking out "for a period of not less than fifty years" and inserting in lieu thereof the following: ", for not less than the period specified in section 609 (or, in the case of a loan guaranteed under part B or a loan made under part C which is for a longer period, for not less than that longer period),".

INCLUSION OF THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 120. (a)(1) Subparagraphs (A), (B), and (C) of paragraph (1) of subsection (b) of section 602 of the Public Health Service Act (42 U.S.C. 291b) are each amended by inserting "the Trust Territory of the Pacific Islands," after "American Samoa,".

(2) Paragraph (2) of such subsection is amended by inserting "the Trust Territory of the Pacific Islands," after "American Samoa,".

(b) Paragraph (1) of subsection (c) of such section is amended by inserting "the Trust Territory of the Pacific Islands," after "American Samoa,".

(c) Paragraphs (1) and (2) of subsection (d) of such section are each amended by inserting "the Trust Territory of the Pacific Islands," after "American Samoa,".

(d) The section of such Act redesignated (by section 201 of this Act) as section 655(a) (42 U.S.C. 291o) is amended by inserting "the Trust Territory of the Pacific Islands," after "American Samoa,".

(e) The amendments made by this section shall apply with respect to allotments (and grants therefrom) under part A of title VI of the Public Health Service Act for fiscal years ending after June 30, 1970, and with respect to loan guarantees under part B and loans under part C of such title made after June 30, 1970.

WAIVING OF RIGHT OF RECOVERY

SEC. 121. Section (3)(b) of the Hospital and Medical Facilities Amendments of 1964 (Public Law 88-443) is amended by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding after such paragraph the following new paragraph:

"(6) the provisions of clause (b) of section 609 of the Public Health Service Act, as amended by this Act, shall apply with respect to any project whether it was approved, and whether the event specified in such clause occurred, before, on, or after the date of enactment of this Act, except that it shall not apply in the case of any project with respect to which recovery under title VI of such Act has been made prior to the enactment of this paragraph."

STATE ALLOTMENTS

SEC. 122. (a) Paragraph (1) of section 602(a) of the Public Health Service Act (42 U.S.C. 291b), as amended by section 102(b) of this Act, is amended to read as follows:

"(1) For each fiscal year beginning after June 30, 1970, the Secretary shall, in accordance with regulations, make allotments among the States, from the sums appropriated under subparagraph (1), (2), or (3) of paragraph (a), or under subsection (b), of section 601, for grants for construction of, respectively (A) public or other nonprofit facilities for long-term care, (B) public or other nonprofit outpatient facilities, (C) public or other nonprofit rehabilitation facilities, and (D) public or other nonprofit hospitals and public health centers. Each allotment shall be made on the basis of the population, the financial need, and the extent of the need for construction of the facilities for which grants from the allotment are to be made, of the respective States."

(b) Such section 602(a) is further amended by adding at the end thereof the following new paragraph:

"(3) If—

"(A) the allotment of any State under paragraph (1) for any fiscal year for grants for construction of facilities described in any one of clauses (A), (B), (C), and (D) of such paragraph is less than

"(B) the amount of the allotment for grants for construction of facilities described in such clause for the fiscal year ending June 30, 1970, as computed under this subsection (as in effect prior to the date of enactment of this paragraph) and subsection (b) (as in effect on and after such enactment),

then such allotment shall be increased to that amount, the total of the increases thereby required being derived by proportionately reducing the allotment to each of the remaining States under subsection (a) and the preceding paragraphs of this subsection for grants for construction of facilities described in such clause, but with such adjustments as may be necessary to prevent any such allotment of any of such remaining States from being thereby reduced to less than that amount."

(c) The amendments made by subsections (a) and (b) shall be effective with respect to allotments made from appropriations under section 601 of such Act for fiscal years beginning after June 30, 1970; except that (1) such amendments shall not apply with respect to allotments from such appropriations under subparagraph (1), (2), or (3) of paragraph (a) of such section for any such year unless the amount appropriated for such year under such subparagraph is greater than the amount appropriated thereunder for the fiscal year ending June 30, 1970, and (2) such amendments shall not apply with respect to allotments from such appropriations under paragraph (b) of such section for any fiscal year beginning after June 30, 1970, unless the amount appropriated for such year under such paragraph is greater than so much of the amount appropriated thereunder for the fiscal year ending June 30, 1970, as was available for allotments for grants for construction of hospitals and public health centers.

(d) Section 602(d)(1) of the Public Health Service Act is amended by (1) striking "for the next fiscal year (and for such year only)" and inserting in lieu thereof "for the next two fiscal years (and for such years only)", and (2) by striking out "purpose for such next fiscal year" and inserting in lieu thereof "purpose for such next two fiscal years".

COMPREHENSIVE PLANNING

SEC. 123. Section 604 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(c) On and after the date the Secretary notifies the State agency (designated in accordance with subsection (a)(1)) of any State that he has found and determined that

there has been developed for such State pursuant to section 314(a) comprehensive State plans which are effective to carry out the provisions of such section and which are consistent with the purposes set forth in section 600, the State plan of such State shall be deemed not to meet the requirements of subsection (a) unless it is consistent with such comprehensive plans."

TITLE II—LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND OTHER MEDICAL FACILITIES

SEC. 201. Title VI of the Public Health Service Act is amended by redesignating part B as part E; by redesignating sections 621 through 625 (42 U.S.C. 291k–291o), and all references thereto, as sections 651 through 655, respectively; and by inserting after section 610 (42 U.S.C. 291j) the following new part:

"PART B—LOAN GUARANTEES FOR MODERNIZATION AND CONSTRUCTION OF HOSPITALS AND OTHER MEDICAL FACILITIES

"AUTHORIZATION OF LOAN GUARANTEES

"SEC. 621. (a) In order to assist public or other nonprofit agencies to carry out needed projects for the modernization or construction of public health centers and of public or other nonprofit hospitals, facilities for long-term care, outpatient facilities, and rehabilitation facilities, the Secretary, during the period July 1, 1969, through June 30, 1975, may guarantee in accordance with this part to non-Federal lenders making loans to such agencies for such projects, payment when due of the principal of and interest on loans approved under this part. If any State so notifies the Secretary, the loan guarantee allotments of such State for the fiscal year ending June 30, 1970, and for the succeeding fiscal year may be utilized to guarantee loans with respect to any project for the construction or modernization of which commenced not earlier than June 1, 1968; but only if such project otherwise meets the requirements for approval of an application under section 623.

"(b) No loan guarantee under this part with respect to any modernization or construction project may apply to so much of the principal amount thereof as, when added to the amount of any grant or loan under part A with respect to such project, exceeds 90 per centum of the cost of such project.

"(c) The Secretary, with the consent of the Secretary of Housing and Urban Development, shall obtain from the Department of Housing and Urban Development such assistance with respect to the administration of this part as will promote efficiency and economy thereof.

"LOAN GUARANTY ALLOTMENTS

"SEC. 622. (a) For each fiscal year, the Secretary shall determine the total amount of principal of loans which may be guaranteed under this part in such fiscal year. Such amount shall then be allotted among the States, in accordance with regulations, on the basis of each State's relative population, financial need, and need for modernization and for construction, respectively, of facilities referred to in section 621.

"(b) Any amount allotted under subsection (a) to a State, other than the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands, for a fiscal year ending before July 1, 1975, and remaining unobligated at the end of each year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), and any such amount shall be in addition to the amounts allotted to such State for such purpose for such next fiscal year; except that, with the consent of the State, any such amount remaining unobligated at the end of the first six months of such next fiscal year may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this title) to other States which have need therefor. Any amounts so reallotted to a State shall be available for the purposes for which made until the close of such next fiscal year and shall be in addition to the amount allotted and available to such State for the same period. Any amount allotted under subsection (a) to the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands for a fiscal year ending before July 1, 1975, and remaining unobligated at the end of such year shall remain available to it, for the purposes for which made, for the next two fiscal years (and for such years only), and any such amounts shall be in addition to the amounts allotted to it for such purpose for each of such next two fiscal years; except that, with the consent of the Virgin Islands, American Samoa, Guam, or the Trust Territory of the Pacific Islands, as the case may be, any such amount remaining unobligated at the end of the first of such next two fiscal years may be reallotted (on such basis as the Secretary deems equitable and consistent with the purposes of this title) to any other of such four States which have need therefor. Any amount reallotted to a State under the preceding sentence shall be available for the purposes for which made until the close of the second of such next fiscal years and shall be in addition to the amounts allotted and available to such State for the same period.

"(c) Any amount allotted or reallotted to a State under this section for a fiscal year shall not, until the expiration of the period during which it is available for obligation, be considered as available for allotment for the next fiscal year.

"APPLICATIONS AND CONDITIONS

"SEC. 623. (a) For each project for which a loan guarantee is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 604, an application by a public or other nonprofit agency. If two or more such agencies join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by the third sentence of section 605(a) (other than clause (6) thereof) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan for which a guarantee is sought under this part.

"(b) The Secretary may approve such application only if—

"(1) there remains sufficient balance in the allotment determined for such State pursuant to section 622 to cover the amount of the loan for which a guarantee is sought in such application,

"(2) he makes each of the findings which are required by clauses (1) through (4) of section 605(b) for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 603 (a), such finding shall be made without regard to the provisions of clauses (1) and (3) of such section),

"(3) he finds that there is compliance with section 605(e),

"(4) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

"(5) he also determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments with respect to the loan are sufficient to protect the financial interest of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

"(c) No application under this section shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"(e)(1) The United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any guarantee under this part, unless the Secretary for good cause waives its right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

"(2) Guarantees under this part shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this part will be achieved, and, to the extent permitted by subsection (f), any of such terms and conditions may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

"(f) Any guarantee made by the Secretary pursuant to this part shall be incontestable in the hands of an applicant on whose behalf such guarantee is made, and as to any person who makes or contracts to make a loan to such applicant in reliance thereon, except for fraud or misrepresentation on the part of such applicant or such other person.

"PAYMENT OF INTEREST ON GUARANTEED LOANS

"SEC. 624. The Secretary shall pay to each holder of a loan guaranteed under this part (but only if such loan was made for a private nonprofit hospital or other private nonprofit medical facility) for and on behalf of the hospital or other medical facility for which such loan was made, an amount equal to one-half of so much of the interest on the portion of the loan so guaranteed as does not exceed the amount of the interest payable on such portion at a rate of 6 per centum per annum, plus one-third of the remainder (if any) of interest payable on such portion.

"LIMITATION ON AMOUNT OF LOANS GUARANTEED

"SEC. 625. The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this part may not exceed the lesser of—

"(1) such limitations as may be specified in appropriations Acts, or

"(2) in the case of loans covered by allotments for the fiscal year ending June 30, 1970, $400,000,000; the fiscal year ending June 30, 1971, $800,000,000; for the fiscal year ending June 30, 1972, $1,200,000,000; for the fiscal year ending June 30, 1973, $1,600,000,000; $2,000,000,000 for the fiscal year ending June 30, 1974; and $2,400,000,000 for the fiscal year ending June 30, 1975.

"LOAN GUARANTEE FUND

"SEC. 626. (a) There is hereby established in the Treasury a loan guarantee fund (hereinafter in this section referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation to en-

able him to discharge his responsibilities under any guarantee issued by him under this part and for payment of interest on the loans so guaranteed. There are authorized to be appropriated to the fund from time to time such amounts as may be necessary to provide capital for the fund.

"(b) If at any time the moneys in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this part and for payment of interest on the loans so guaranteed, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, but only in such amounts as may be specified from time to time in appropriations Acts. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund."

TITLE III—LOANS FOR CONSTRUCTION AND MODERNIZATION OF PUBLIC HOSPITALS AND OTHER PUBLIC MEDICAL FACILITIES

LOANS FOR CONSTRUCTION AND MODERNIZATION OF PUBLIC HOSPITALS AND OTHER PUBLIC MEDICAL FACILITIES

SEC. 301. Title VI of the Public Health Service Act is further amended by adding after part B (added by section 201 of this Act) the following new part:

"PART C—LOANS FOR CONSTRUCTION AND MODERNIZATION OF PUBLIC HOSPITALS AND OTHER PUBLIC MEDICAL FACILITIES

"AUTHORIZATION OF LOANS

"SEC. 631. (a) In order to assist public agencies to carry out needed projects for the construction or modernization of facilities referred to in paragraphs (a) and (b) of section 601, the Secretary is authorized to loan funds, in accordance with this part, to such agencies for the purpose of carrying out such projects.

"(b) No loan under this part to carry out any project may, when added to the amount of any grant or loan under part A with respect to such project, exceed 90 per centum of the cost of such project.

"ALLOCATION AMONG THE STATES

"SEC. 632. (a) The Secretary shall allot among the States the amounts available for each fiscal year for the making of loans under this part. The allotments under this part shall be made among the States on the basis of the population, the financial need, and the extent of the need for construction and modernization of the facilities referred to in paragraph (a) and (b) of section 601, of the respective States.

"(b) Any sum allotted to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State, for the purpose for which made, for the next fiscal year (and for such year only), and any such sum shall be in addition to the sums allotted to such State for such purpose for such next fiscal year. Any sum so allotted to a State for a fiscal year shall not (even though remaining unobligated at the close thereof) be considered as available for allotment among the States for the next fiscal year.

"APPLICATIONS

"SEC. 633. (a) For each project for which a loan is sought under this part, there shall be submitted to the Secretary, through the State agency designated in accordance with section 604, an application by the State or a political subdivision thereof or by any other public agency. If two or more such agencies join in the project, the application may be filed by one or more such agencies. Such application shall (1) set forth all of the descriptions, plans, specifications, assurances, and information which are required by clauses (1) through (5) of section 605(a) with respect to applications submitted under that section, (2) contain such other information as the Secretary may require to carry out the purposes of this part, and (3) include a certification by the State agency of the total cost of the project and the amount of the loan sought under this part.

"(b) The Secretary may approve such application only if—

"(1) there remains sufficient balance in the allotment determined for such State pursuant to section 632 to make the loan applied for,

"(2) he makes each of the findings which are required by clauses (1) through (4) of section 605(b) for the approval of applications for projects thereunder (except that, in the case of the finding required under such clause (4) of entitlement of a project to a priority established under section 603 (a), such findings shall be made without regard to clauses (1) and (3) of such section),

"(3) he obtains assurances that the applicant will keep such records, and afford such access thereto, and make such reports, in such form and containing such information, as the Secretary may reasonably require, and

"(4) he also determines that the terms, conditions, maturity, security (if any), and schedule and amounts of repayments are reasonable and in accord with regulations.

"(c) No application shall be disapproved until the Secretary has afforded the State agency an opportunity for a hearing.

"(d) Amendment of an approved application shall be subject to approval in the same manner as an original application.

"RECOVERY

"SEC. 634. If any of the events specified in clause (a) or clause (b) of section 609 occurs with respect to any facility for which a loan has been made under this part, before the termination of the period during which a loan made by the Secretary under this part is outstanding, the balance of any loan made by the Secretary under this part shall become immediately due and payable, unless the Secretary for good cause determines to waive the provisions of this section.

"GENERAL PROVISIONS FOR LOAN PROGRAM

"SEC. 635. Loans made under this part shall—

"(1) be repayable in equal periodic installments over a period of not to exceed twenty-five years,

"(2) bear interest at the rate of 3 per centum per annum, and

"(3) be secured by such evidence of financial obligation as the Secretary shall determine to be necessary or desirable to protect the interests of the United States against failure on the part of the borrower to repay the principal and interest on such loan in accordance with the terms thereof.

"REVOLVING LOAN FUND

"SEC. 636. (a) There is hereby created within the Treasury a separate fund (hereafter in this section referred to as the 'fund') for loans for the construction and modernization of the facilities referred to in paragraphs (a) and (b) of section 601. The fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of this part. The total of any loans made from the fund in any fiscal year shall not exceed such limitations as may be specified in appropriation Acts. A business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849) for wholly owned Government corporations.

"(b)(1) The Secretary, when authorized by an appropriation Act, may transfer to the fund available appropriations provided under section 637 to provide capital for the fund. Amounts received by the Secretary as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived by him from his operations in connection with this part, including any moneys derived directly or indirectly from the sale of assets, or beneficial interests or participations in assets, of the fund, shall be deposited in the funds, in such amounts as may be authorized from time to time in appropriation Acts.

"(2) All loans, expenses, and payments pursuant to operations of the Secretary under this part shall be paid from the funds, including (but not limited to) expenses and payments of the Secretary in connection with sale, under section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. From time to time, and at least at the close of each fiscal year, the Secretary shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations paid out for loans under this part or available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Secretary determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"APPROPRIATION AUTHORIZATION

"SEC. 637. There are authorized to be appropriated to the Secretary over a period of five fiscal years, beginning with the fiscal year ending June 30, 1971, such sums as may be necessary for transfers to the revolving fund established under section 636, but not to exceed in the aggregate $750,000,000. Of the sums authorized to be appropriated under this section not more than $150,000,000 is authorized to be appropriated for the fiscal year ending June 30, 1971.

"DURATION OF LOAN PROGRAM

"SEC. 638. No loans shall be made under this part after June 30, 1975."

AMENDMENT TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT

SEC. 302. Section 302(c)(2)(B) of the Federal National Mortgage Association Charter Act is amended to read as follows:

"(B) The Department of Health, Education, and Welfare, but only with respect to loans (i) made by the Commissioner of Education for construction of academic facilities, and loans to help finance student loan programs, and (ii) made under part (C) of title VI of the Public Health Service Act for the modernization of hospitals and other health facilities."

TITLE IV—GRANTS FOR CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS OF GENERAL HOSPITALS

SEC. 401. Title VI of the Public Health Service Act is further amended by adding after part C (added by section 301 of this Act) the following new part:

"PART D—CONSTRUCTION OR MODERNIZATION OF EMERGENCY ROOMS

"AUTHORIZATION

"SEC. 641. In order to assist in the provision of adequate emergency room service in various communities of the Nation for treatment of accident victims and handling of other medical emergencies through special project grants for the construction or modernization of emergency rooms of general hospitals, there are authorized to be appropriated $20,000,000 each for the fiscal year ending June 30, 1971, and the next four fiscal years.

"ELIGIBILITY FOR GRANTS

"SEC. 642. Funds appropriated pursuant to section 641 shall be available for grants by the Secretary for not to exceed 50 per centum of the cost of construction or modernization of emergency rooms of public or nonprofit general hospitals, including provision or replacement of medical transportation facilities. Such grants shall be made by the Secretary only after consultation with the State agency designated in accordance with section 604(a)(1) of the Public Health Service Act. In order to be eligible for a grant under this part, the project, and the applicant therefor, must meet such criteria as may be prescribed by regulations. Such regulations shall be so designed as to provide aid only with respect to projects for which adequate assistance is not readily available from other Federal, State, local, or other sources, and to assist in providing modern, efficient, and effective emergency room service needed to care for victims of highway, industrial, agricultural, or other accidents and to handle other medical emergencies, and to assist in providing such service in geographical areas which have special need therefor.

"PAYMENTS

"SEC. 643. Grants under this part shall be paid in advance or by way of reimbursement, in such installments and on such conditions, as in the judgment of the Secretary will best carry out the purposes of this part."

TITLE V—EVALUATION OF HEALTH PROGRAMS

SEC. 501. (a) Title V of the Public Health Service Act is amended by inserting at the end thereof the following new section:

"EVALUATION OF PROGRAMS

"SEC. 513. Such portion as the Secretary may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any provision of this Act, the Mental Retardation Facilities Act, the Community Mental Health Centers Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85–151), for any fiscal year beginning after June 30, 1970, shall be available for evaluation (directly, or by grants or contracts) of any program authorized by this Act or any of such other Acts, and, in the case of allotments from any such appropriation, the amount available for allotment shall be reduced accordingly."

(b)(1) Effective with respect to appropriations for fiscal years beginning after June 30, 1970—

(A) section 304(d) of the Public Health Service Act (42 U.S.C. 242b) is amended by striking out "; except that for any fiscal year ending after June 30, 1968" and all that follows down to but not including the period;

(B) section 309(c) of such Act (42 U.S.C. 242g) is amended by striking out "(1)", and by striking out ", and (2)" and all that follows down to but not including the period;

(C) section 314(d)(1) of such Act (42 U.S.C. 246) is amended by striking out ", except that, for any fiscal year ending after June 30, 1968" and all that follows down to but not including the period;

(D) section 314(e) of such Act (42 U.S.C. 246) is amended by striking out the last sentence;

(E) section 797 of such Act (42 U.S.C. 295h–6) is repealed; and

(F) section 901(a) of such Act (42 U.S.C. 299a) is amended by striking out the last sentence.

(2) Effective with respect to appropriations for fiscal years beginning after June 30, 1970, section 262 of the Community Mental Health Centers Act (42 U.S.C. 2688p) is repealed.

TITLE VI—AVAILABILITY OF APPROPRIATIONS

SEC. 601. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress as amended), the Clean Air Act (Public Law 88–206), the Solid Waste Disposal Act (title II of Public Law 89–272), the Vocational Rehabilitation Act, as amended, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88–164, as amended), the Act of August 5, 1954 (Public Law 568, Eighty-third Congress, as amended), the Act of August 16, 1957 (Public Law 85–151), and title V of the Social Security Act shall remain available for obligation and expenditure until the end of such fiscal year.

Amend the title so as to read: "To amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such Act, and for other purposes."

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. YARBOROUGH. 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. YARBOROUGH. Mr. President, the Hospital and Medical Facilities Construction and Modernization Amendments of 1969 is the best approach toward providing Federal construction assistance in overcoming the present problems associated with the Nation's health facilities. In brief, these problems are essentially twofold:

The extent of existing health facility capital needs, especially capital for modernization; and the need to encourage a better balance or mix of community health facilities, integrated in a functional sense.

The Nation presently needs an additional 85,000 acute care beds, 893 public health centers, 149,000 additional long-term care or extended-care beds, 872 outpatient centers and 388 facilities for rehabilitation, at a total cost of $6 billion at today's prices.

Mr. President, that is the need certified by State public health officers to the Department of Health, Education, and Welfare.

The Nation's gravest health facility problem in terms of cost is to modernize or replace health facilities containing some 455,000 acute and long-term care beds, at an estimated cost of $10.5 billion. Also of great importance, increased emphasis must be placed upon coordinated health planning leading to a better balance or mix of community level health facilities, capable of providing the full spectrum of facilities and services necessary to the continuity of patient care.

The bill properly addresses itself to this two-pronged problem by retaining those aspects of the existing health facility planning and construction program which have demonstrated their effectiveness in respect to these problems while, at the same time, changing and expanding the existing program in those areas where the need for such change and expansion has been clearly demonstrated.

In summary, the bill would extend the authority for 5 years for the grant program, provide new authority to administer a 6-year program of loan guarantees with interest subsidies, and loan guarantees for public facilities without interest subsidies. Another important feature is a 5-year program of low interest direct loans for public facilities. In addition, the bill contains new authority for direct Federal grants to assist in the construction and modernization of emergency rooms and transportation systems, as well as including several other overall provisions which would modify the existing program to deal more directly with specific health facility and health planning problems which have been clearly identified since the program's last extension.

The bill properly expands the Federal effort in dealing with the existing health facility needs through the creation of a 6-year, $400 million per year loan guarantee program, with Federal interest subsidies, which would assist privately owned nonprofit health facilities in both modernization and construction of additional health facilities. This method was selected after thorough consideration of all the facets connected with expanding the authority under the existing grant program to the extent necessary to have an appreciable impact on the Nation's health facility modernization and construction needs, which are over $16 billion. Further, the interest subsidy provision will tend to reduce or at least slow the rate of ever-increasing individual patient-day costs since the payment of interest on loans will in part be assumed by the entire Nation rather than the individual patient.

At the same time, the bill provides loan guarantee assistance for the construction and modernization of publicly owned health facilities, although without interest subsidies. The reason no interest

subsidies were included for "publics" is that, unlike private, nonprofit health facilities, the "publics" do have certain equalizing capital formation advantages such as their revenue or tax base, as well as the incentive of the tax-free status of the interest earned on their bonds.

Because 28 percent of all hospitals are publicly owned and represent an almost equal percent of the existing hospital modernization needs, it was decided that a low-interest loan authorization of $750 million for 5 years was essential to help meet the needs of publicly owned health facilities. In many States the publicly owned hospital has traditionally fulfilled the medium-sized community health facility role which, by many, had been commonly considered the role of the private nonprofit hospital.

The bill provides the authority to administer a 5-year, $20 million per year program of direct Federal grants to assist in the construction and modernization of emergency rooms and transportation systems. This provision will have an affirmative impact upon the Nation's capability to deliver emergency health services to victims of highway and industrial accidents as well as other forms of mishaps.

Many people are seriously injured in automobile accidents each year and they die in many cases because it takes hours to get them into hospitals. Many other people are involved in emergency situations.

This provision is for the immediate treatment for many hundreds of thousands of people being injured in this country on the highways, and the 53,000 killed in one year, in addition to the millions of people who were injured.

The bill also covers other people who have need for immediate care and who have difficulty getting care.

The existing grant category entitled "diagnostic or treatment centers" would be retitled "outpatient facilities" and redefined to permit private nonprofit groups to be assisted in the construction of free-standing outpatient care centers. The existing law presently limits grant assistance under the diagnostic or treatment category to public agencies and to sponsors representing privately owned nonprofit general hospitals.

The bill would also permit, at the option of the State agency, increasing the Federal share up to 90 percent for projects which would assist in reducing the costs of delivering care through shared services, freestanding outpatient care centers, or provide services for persons in an urban or rural poverty area.

The priority for considering projects to be approved under the program would be revised to make the rural area priority permissive, that is, at the option of the State, as well as to giving special priority consideration to outpatient facilities which provide services for residents of low-income areas. Special priority consideration would also be given to projects which provide comprehensive health services to a defined population group—such as facilities for prepaid group practice available generally to all the residents or on any other basis in low-income areas—to projects which provide training for the health professions—including the allied health professions—to projects which have special significance for the treatment of alcoholism, and to the extent deemed feasible by the State agency, for projects to replace hospitals operated by State, county, and local governments. In addition, special priority would be given to general hospitals where extended care facilities are available to patients either as part of the general hospital, through a facility with which the applicant is affiliated, or through a transfer agreement under title XVIII of the Social Security Act.

Federal assistance would be available under the bill to assist in the purchase of a site upon which a health facility will be located as well as assisting in the purchase of equipment for health facilities without construction being associated with the project, and when the equipment will provide a new and needed community service.

The bill requires that the appropriate 314(b) areawide planning agency, where one exists, be provided an opportunity to consider all applications for assistance before such applications are approved.

In 1966, when this committee and Congress included comprehensive health planning in the partnership for health amendments, it was felt that the previous lack of planning and control in health services had resulted in fragmentation, unnecessary, and costly duplication, and virtually no unified attack on poor health care.

However, the present Hill-Burton statute does not require any coordination between State agency administering Hill-Burton programs and State agency responsible for comprehensive health planning.

If the State comprehensive planning agency is expected to carry out the legislative mandate to coordinate health planning within a State, Hill-Burton projects should at the very least be consistent with State comprehensive plans that are developed.

Presently, State plans providing public health services under section 314(d), including activities such as immunization projects, mental health programs, and the training of State and local health personnel, must be "in accordance with" the comprehensive health plans of each State.

This legislation provides that, once the Secretary of Health, Education, and Welfare determines that a State comprehensive health planning agency has developed an effective plan that does serve the purposes of the Hill-Burton program, the State Hill-Burton plan must be consistent with those plans developed by the State comprehensive health planning agency.

In conclusion, I believe the program authorized by this bill is badly needed. Our current national needs for hospital and other health facility construction and modernization are in excess of $16 billion. I feel that this bill will make a substantial contribution toward meeting this need and recommend approval by the Senate.

The PRESIDING OFFICER (Mr. BYRD of West Virginia). The clerk will state the committee substitute which is before the Senate.

Mr. DOMINICK. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The clerk will state the committee substitute which is before the Senate and which has been discussed by the Senator from Texas. The Senate is considering H.R. 11102.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Has the Senator from Texas yielded the floor?

Mr. YARBOROUGH. I yield the floor.

Mr. DOMINICK. Mr. President, if we adopt the committee substitute, is it then open to amendment?

The PRESIDING OFFICER. No further amendments would be in order.

Mr. DOMINICK. Mr. President, before we adopt the committee substitute, we had better amend the substitute, had we not, if we are going to do any of these things; is that the procedure?

The PRESIDING OFFICER. The Chair has only asked the clerk to report the committee substitute; not that the Senate agree to it.

The BILL CLERK. Strike all after the enacting clause and insert new language.

Mr. YARBOROUGH. Mr. President, I move that the committee substitute be adopted.

Mr. DOMINICK. On that matter, it is my understanding that the answer of the Chair to my inquiry was that if we adopt the committee substitute we have no chance to amend it.

Mr. YARBOROUGH. I withhold my request.

Mr. COTTON. Mr. President, is it in order for me to call up my amendment?

The PRESIDING OFFICER. The Senator from New Hampshire has the floor, and it is in order for him to call up his amendment.

AMENDMENT NO. 576

Mr. COTTON. Mr. President, I call up my amendment No. 576 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 43, line 6, strike out "June 1" and insert in lieu thereof "January 1".

Mr. COTTON. Mr. President, it is my understanding that this amendment is acceptable to the managers of the bill. When the committee considered the bill, there were two instances, one in Kentucky and one in my State, in which, because funds were exhausted, no grants for modernization and construction could be obtained under the previous bill, although they were declared eligible by the State authority. The instance in my State involves the Mary Hitchcock Memorial Hospital, and a project which provides essential hospital and construction and modernization in support of need for patient service; medical, nursing and other allied health education; and additional area-wide health needs. Mary Hitchcock is a regional referral center serving a wide area of northern New England—a metropolitan-type hospital located in a rural area. Comprehensive medical staff coverage is provided by specialists in all major branches

of medicine and surgery, including staff from the Hitchcock clinic and clinical faculty members of Dartmouth Medical School. The hospital is heavily committed to education of health professions through its support of the undergraduate program at Dartmouth, its graduate medical education for over 80 interns and residents, and its essential education programs in professional nursing, practical nursing and several branches of medical technology.

Extensive remodeling and enlarging of its facilities were undertaken and application was made and approved by the State authorities, but there was no money available.

However, the hospital has proceeded with its own program. Although its money is not completely raised, it is attempting to raise the necessary amounts as it goes along. Its project will cost more than $11 million, and is of vital concern to all of the inhabitants of Vermont and New Hampshire, and of other States.

It is my understanding that, because their application had been made and approved, but could not be funded, it was the purpose of the committee to see that they could be eligible to apply for the loan guarantee program after the passage of this measure. For that reason, the date on page 43 was set back to June 1, 1968.

Unfortunately, however, in the case of this particular hospital—and I believe another very important facility in the State of Kentucky—they were misinformed or misunderstood the date when these repairs and expansion would commence. They actually began back in February that year, I believe. Therefore, my amendment simply strikes out the date June 1, 1968, and inserts January 1, 1968, as the cutoff date for application.

Mr. YARBOROUGH. Mr. President, will the distinguished Senator yield to me so that I may make a unanimous-consent request regarding the privilege of the floor for staff members, without his losing the right to the floor?

Mr. COTTON. Of course.

The PRESIDING OFFICER (Mr. BYRD of Virginia). Does the Senator yield for that purpose?

Mr. COTTON. Certainly.

PRIVILEGE OF THE FLOOR

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that during debate on this bill (H.R. 11102) members of the staff of the Committee on Labor and Public Welfare be allowed on the floor without the usual limitation as to number. We have an unusual number of staff members necessary to be in attendance during the debate on the bill.

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

Mr. DOMINICK. Mr. President, will the Senator from New Hampshire yield?

Mr. COTTON. I yield.

Mr. DOMINICK. As the ranking Republican member on the Subcommittee on Health of the Committee on Labor and Public Welfare, it seems to me the Senator's amendment solves the problem in his State, and I presume the problem exists in other States as well. Although I know that the people downtown are not too happy about the retroactive idea, I am happy to accept the amendment for the minority.

Mr. YARBOROUGH. Mr. President, I am happy to accept the amendment.

Mr. COTTON. I thank both Senators. Having practiced law, I will not say anything more.

Mr. YARBOROUGH. The Senator from New Hampshire had such a convincing argument that he could convince both the majority and minority members on this amendment. After reading the report at page 39, I agree with the Senator from Colorado that, although the people downtown are not happy about this retroactive idea, we should accept the amendment.

Mr. BYRD of West Virginia. Mr. President, I thought we had long passed the day when convincing arguments would convince anyone.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD at this point.

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

The amendment is as follows:

At the end of the bill, add the following new title:

"TITLE VII—MARIHUANA

"CONGRESSIONAL FINDINGS

"SEC. 701. The Congress finds that the use of marihuana is increasing in the United States, especially among the young people thereof, and that there is need for a better understanding of the health consequences of using marihuana. The Congress further finds that, notwithstanding the various studies carried out, and research engaged in, with respect to the use of marihuana, there is a lack of an authoritative source for obtaining information involving the health consequences of using marihuana.

"HEALTH RESEARCH REPORTS

"SEC. 702. The Secretary of Health, Education, and Welfare, after consultation with the Surgeon General and other appropriate individuals, shall transmit a report to the Congress on or before January 31, 1971, and annually thereafter (1) containing current information on the health consequences of using marihuana, and (2) containing such recommendations for legislative and administrative action as he may deem appropriate. A preliminary report shall be transmitted to the Congress by the Secretary concerning current information on the health consequences of using marihuana not later than ninety days after the date of enactment of this title.

"SHORT TITLE

"SEC. 703. This title may be cited as the 'Marihuana and Health Reporting Act.'"

Mr. DOMINICK. Mr. President, this amendment contains the text of S. 3190, the Marihuana and Health Act, which I introduced December 1, 1969. It is cosponsored by the Senator from Iowa (Mr. HUGHES), who is chairman of the Subcommittee on Alcoholism and Narcotics, the Senator from Illinois (Mr. SMITH), and our distinguished floor leader on the pending legislation, the Senator from Texas (Mr. YARBOROUGH).

My proposal is nearly identical to the existing law which requires annual reports on the health consequences of smoking cigarettes. It requires the Secretary of Health, Education, and Welfare, after consultation with the Surgeon General, to report to Congress on January 31, 1971, and annually thereafter, concerning current information on the health consequences of using marihuana.

Since uninformed use or experimentation with marihuana is increasing at such phenomenal rates, the amendment also provides that a preliminary report regarding current information on the health consequences of using marihuana shall be made to the Congress within 90 days.

The amendment is another in a series of legislative products generated by the hearings conducted by the Special Subcommittee on Alcoholism and Narcotics. On December 30, 1969, President Nixon signed Public Law 91–177, extending the Economic Opportunity Act. As Members of the Senate know, that act contains my drug rehabilitation program as well as an alcoholism program authored by Senator HUGHES. The legislation extending the authorization for community mental health centers also contains major changes in the provisions with regard to alcoholism and drugs, and became Public Law 91–211 on March 13, 1970.

While our special subcommittee is continuing its work, the evidence regarding marihuana has consistently led to one very strong conclusion—there is a great public need for an authoritative report on the health consequences of using marihuana.

INFORMATION GAP

There have been several significant developments since the Marihuana and Health Act was originally introduced, and I would like to bring them to the attention of the Senate.

On December 3, 1969, President Nixon sponsored a symposium on drugs for the Nation's Governors. In his address, the President said:

I must say, when I started out, I thought the answer was more severe penalties. But, when you are talking about 13, 14 and 15 year olds, the answer is not more penalties, it is more information.

That, of course, is the purpose of my bill—reliable, authoritative information from a recognized source of the highest stature.

Some would have us believe that the issues surrounding the health aspects of marihuana are resolved. The fact of the matter is there still remain a great number of unknown health implications from marihuana experimentation. I will refer to these again in more detail in a moment, but first I want to take note of the fact that Secretary Finch was also at the

Governor's Conference. The Secretary pointed out that Government scientists are now making tests to determine whether marihuana has any detrimental effect on the human system. He then is reported to have said, "The fact is, we just don't know."

On December 18, 1969, U.S. Surgeon General Steinfeld appeared before the Senate Labor and Public Welfare Committee. I discussed my marihuana bill with him, and was delighted to receive his support. Let me read from the hearing record:

Senator DOMINICK. Do you see any real roadblocks in this type of approach to at least getting information so that we can use it for public education purposes?

Surgeon General STEINFELD. I not only don't see a roadblock, I think it is excellent. I think the annual reports on smoking and health have proved extremely useful, and I would hope a report on marihuana would be most useful in bringing information to the public and forming a broad foundation from which we can teach and launch new research.

Subsequently, Assistant Secretary Egeberg testified before our special subcommittee. His comment on the Marihuana and Health Act was as follows:

My whole section of HEW is in favor of this.

Other witnesses testified in favor of the amendment. None opposed it. For purposes of legislative history, I ask unanimous consent that excerpts of representative testimony be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMINICK. Mr. President, funding of research programs on marihuana has been increasing substantially in recent years.

In testimony before a House committee last fall, Surgeon General Steinfeld said:

With respect specifically to marihuana, NIMH, activities have been substantially expanded within the past few years in recognition of the rapidly increasing seriousness of the marihuana problem. This increase is reflected in the amount of funds obligated by NIMH for research grants and contracts in this field. In FP 1967, NIMH obligated $786,000 for marihuana research grants and contracts. Comparable figures for 1968 and 1969 respectively were $1,239,000 and $1,330,000.

In FY 1970, if funds are available, the Institute proposes to obligate $2,550,000 to support grant and contract studies of marihuana, which means that there will have been a more than three-fold increase for support of these studies in the last four years. In addition, of course, the Institute conducts its own intramural research programs on marihuana.

When I introduced this legislation on December 1 of last year, I asked the Library of Congress to compile a list of federally financed marihuana research programs, and I placed that list in the CONGRESSIONAL RECORD. There were 67 projects active during the 3 fiscal years 1968, 1969, and 1970. The Federal money involved totals $10.7 million, but in some of these projects marihuana was only part of a larger study.

Significantly, in his drug abuse message of March 11, 1970, President Nixon announced he was requesting an additional $1 million for marihuana research for the remaining months of fiscal year 1970.

I also placed in the RECORD last year four different publications of the National Institute of Mental Health on the subject of marihuana: a question and answer brochure, two posters, and a 60-second TV spot.

I think the efforts of NIMH are to be commended. What concerns me, however, is the difficulty in finding out what sort of consensus is beginning to emerge from these millions of dollars in research.

There are two new publications by NIMH which are related, but do not reach the objective of my proposal.

A periodical entitled "Drug Dependence" began in the late summer of 1969. It contains original articles by professionals in the field of drug dependence, as well as abstracts of current literature.

A second publication, "Resource Book for Drug Abuse Education," was issued by NIMH in October 1969. It is part of the larger drug abuse education project of the Institute. Among its contents are suggestions for teachers, a model plan for setting up an education workshop, and numerous facts and articles on various drugs. It is an excellent publication and I commend it to every Senator. With reference to our debate today, I would call your attention to the following comment from that book:

Marihuana is one of the least understood of all natural drugs, although it has been known for nearly 5,000 years. . . . All researchers agree that more knowledge of the physical, personal, and social consequences of marihuana use is needed before more factual statements can be made.

After a 7-month hassle with the Army, I placed in the CONGRESSIONAL RECORD of March 5, 1970, a report of Army marihuana research on 35 human volunteers at Edgewood Arsenal, Md., conducted in the late 1950's and early 1960's. When Assistant Secretary Egeberg appeared before our subcommittee on March 24, 1970, he was accompanied by Dr. Morton Miller of NIMH. I asked Dr. Miller about the Army research, and I think his response will be of interest to the Senate:

Dr. MILLER. The only thing that I am aware of is the information that was published in the *Congressional Record* as a result of your exchanges with the Army.

Senator DOMINICK. Did you have any knowledge that this had gone on prior to the time of publication of this in the Record?

Dr. MILLER. Yes. We had through various sources had an inkling of this. Dr. Sim, one of the researchers at Edgewood, had made some statements at a recent conference which we partially supported about some of their findings, but I personally did not see anything like the full report until I saw the publication in the Record.

Senator DOMINICK. In other words, you didn't really know in NIMH what was going on in the Army until this recent disclosure.

Dr. MILLER. Yes, sir, not to the extent it was disclosed.

Let me turn briefly to some of the evidence on use and the uncertainties about the health effects of marihuana.

EXTENT OF USE

When I introduced the Marihuana and Health Act, I commented at some length on the evidence before our subcommittee as to the extent of use of marihuana. In the interest of time, I will not repeat that today except to note the rather startling composition of the users, both regular users and casual experimenters.

The administration estimates that the number who have at least experimented with marihuana ranges from 8 to 10 million.

Age groups are not limited to college students, but extend from elementary school through junior high and high school and on into the adult population.

Social background is not limited to ghetto residents, but extends to business and professional people.

MARIHUANA ROULETTE

At the core of the public confusion about marihuana today are the widely varying reports we hear announced here and there around the country concerning the impact of marihuana on health. Unfortunately, the public is left with the impression that there is just one form of marihuana. This is not the case.

The principal active ingredient consists of a number of compounds called tetrahydrocannabinols—THC. The pharmacologic potency of any mixture of marihuana—from mild forms to the purest and most concentrated extract called hashish—depends upon the amount of THC which it contains.

Marihuana simply does not come labeled "Made in U.S.A." with the THC content carefully marked across the bottom.

Look at some of the variables which affect potency:

First. Location where grown.

Second. Growing conditions such as temperature, humidity, and soil composition.

Third. Methods of cultivation.

Fourth. Methods of preparation for use.

Fifth. Methods of storage.

But there are also variables in reaction, dependent on the user. The Director of the National Institute of Mental Health reported after a survey of high school and college use that 50 percent of those who tried marihuana experienced no effects. His explanation:

This finding may be a function of at least four factors: (1) the agent may not have been potent, (2) frequently effects are seen only after repeated use, (3) the expectation of the user has a significant effect on what he experiences, (4) the social setting in which use takes place has an effect on the response.

The information submitted to our subcommittee by NIMH lists the following as one of the few proven facts about marihuana:

Individuals react very differently to this drug, which is why you hear stories of extreme reactions, and stories of no reactions.

Let me dwell for a moment on one particular factor, the location where marihuana is grown. Evidence before the subcommittee indicates marihuana grown within the United States is generally of the relatively mild type. But this "homegrown pot," if you will, is not the marihuana generally being circulated for sale.

President Nixon's Task Force on Narcotics, Marihuana, and Dangerous Drugs concluded in June 1969, that most of the marihuana sold and consumed in the United States is grown in Mexico. How much THC does it contain? We do not know, but we do know it is characterized as high potency.

Confirmation came at subcommittee field hearings last fall when a regional director of the Bureau of Narcotics and Dangerous Drugs testified:

We have had a few large seizures from the Midwest, uncultivated marihuana harvested in Iowa and Nebraska. That is a small part of it. The main traffic, 99% of the marihuana in this country, comes from Mexico.

A medical doctor from Denver put it this way:

Where the confusion lies is in the testing of different plans grown in different endemic areas with different soil and climate conditions . . .

Today, hashhish is plentiful in our metropolitan city and in potency ranges up to 40 times as potent as our locally grown marihuana . . . Comparing a drug like hashish to locally grown marihuana is like comparing a firecracker to a stick of dynamite. Intoxicants as strong as hashish can and do cause panic reactions, acute anxiety states, and in those who have a borderline mental problem it can cause a frank psychosis. There are many questions unanswered about the drug we call marihuana.

Mr. President, as if there were not already enough variables facing the user, there is another. Marihuana not only will vary in its own potency, it may be mixed in an unrecognizable fashion with even more dangerous drugs, as shown by this exchange:

Senator DOMINICK. Dr. Starkey, how does a young person who is being asked to experiment with drugs know what kind of marihuana is going to be given to him?

Dr. STARKEY. The young person doesn't know whether he is getting DMT (a dangerous hallucinogen) mixed with marihuana or is getting hashish or a local grass.

According to the American Medical Association:

The strength of marihuana sold in this country varies widely. It is almost always "cut" with tobacco or some other substance. *Sometimes other more potent drugs are added. It is impossible to know exactly what is being sold under the name of marihuana;* there is no quality control in the illegal drug business. This, plus uncertainty about one's own psychological reaction to it, makes marihuana experimentation risky.

In fact, there are so many variables affecting potency and reaction that marihuana research was severely hampered until synthetic THC was discovered in 1966. A consistent and precise quality of the natural drug was unavailable even to scientists prior to that date.

I want to emphasize we have been listening in our hearings to people who have approached the drug problem from all sides, including users. We have visited Synanon in California, and listened to former users now in Cenikor, a nonprofit organization for rehabilitation of drug abusers. The following exchange of Senator HUGHES with one user is representative of the responses we have had:

Senator HUGHES. What would you say to any young adult or young person who is tempted at this point to smoke their first marihuana cigarette?

Mr. LEVY. I would say, "Don't do it."

Personal experiences vary, but with odds like those noted above, one must ask whether the casual experimenter, as well as the regular user, is taking an unnecessary and substantial health risk.

Frankly, I think the need for an official Government report with the stature of the cigarette smoking report is amply demonstrated by the testimony which we received from a witness in field hearings. After describing a drug information program conducted in the school, this member of a special education department testified:

One of the parents came to me after this had started and said, "I had a beautiful relationship with my daughter until you people put on that seminar. Now she is questioning me and my attitudes toward marihuana."

Now parents feel very uncomfortable when kids challenge, and they challenge in an area where parents really aren't sure of themselves.

Parents are not the only ones who are not sure about marihuana. In fact, there is a great deal of uncertainty in the medical community.

I want to emphasize in the strongest sense the following caution issued by the National Institute of Mental Health this year:

Statements being reported by students that the use of marihuana is "medically safe" are not supported by scientific evidence. It is hoped that research now underway may add to the little currently known about the effects of the use of marihuana.

To that, add these statements, also from NIMH:

To be honest, scientists still don't know everything about the specific effects of marihuana.

Today, research scientists are studying marihuana's effects on the brain, the nervous system, on chromosomes, and on various organs of the body. They're trying to find out why different people have different reactions to it. . . . Maybe it will turn out that there's no reason for it to be illegal. But nobody can be sure until all the facts are in. And until they are, it's a pretty bum risk.

Dr. James Goddard, former Commissioner of the Food and Drug Administration, appeared before the subcommittee. He lists the following health unknowns of marihuana:

Does it affect the reproductive processes?
Does it affect human chromosomes?
Does long-term usage have harmful effects?

What type of treatment will be most effective in rehabilitating chronic users?

What conditions favor continuation of marihuana use as opposed to moving to hard drugs?

On January 25, 1970, an article written by Surgeon General Steinfeld on marihuana was published by the Washington Star. In it, he states:

Further research in needed to elucidate both the short and long term physical and psychic effects of marihuana.

While the Steinfeld article was prepared in conjunction with proposed changes in the criminal laws regarding marihuana, I think it is also useful from the standpoint of our special subcommittee. It represents much of the thinking of the new Surgeon General regarding marihuana, and in particular, makes reference to a number of health issues. I ask unanimous consent that it be placed in the CONGRESSIONAL RECORD at the conclusion of my remarks today.

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

(See exhibit 2.)

SURGEON GENERAL REPORT—COMMITTEE ON MARIHUANA

Mr. DOMINICK. There remains an issue to which we obviously should address ourselves; that is, the fact that in January the Senate passed the Controlled Dangerous Substances Act with a provision for a Committee on Marihuana. The Committee would be appointed by the Attorney General and the Secretary of Health, Education, and Welfare, and would have a 2-year life.

However, that bill has run into considerable difficulty in the House. Jurisdictionally speaking, it has been split between the House committees. There is also more than the usual amount of controversy regarding its merits. It may be quite some time before it becomes law, if ever.

I am not opposed to creation of a Committee on Marihuana, but there is only a limited amount it can accomplish in 2 years and there is no need for it to be the sole approach of congressional concern.

Certainly the Surgeon General report required by my amendment is not incompatible with such a Committee even if the Committee is finally authorized.

A 2-year Committee standing by itself, however, has serious deficiencies.

Several million dollars have already been spent on marihuana research. More will be needed, and rightly so. But how do you convince 8 to 12 million people to stop using marihuana and wait 2 years for the Committee's report? We have acquired a substantial body of knowledge, and it should be compiled in layman's language and issued in 90 days. My amendment requires that.

But there is another side to the coin. Evidence is abundant that some of the real tough questions about the effects of marihuana probably cannot be answered in the next 2 years. What then under the Committee approach? Several medical witnesses stressed the difficulties we face in getting solid information. Indeed, a witness from the American Psychiatric Association spoke in terms of 5 years just to get "some" of these answers. This is the reason my amendment requires an annual report on the state of knowledge, just as we have on cigarette smoking.

There is another factor. The Committee on Marihuana has a much broader mandate to cover during its short life. It is directed to examine "all aspects" of marihuana. The collateral issues specified are a survey of the extent of use, the relationship of marihuana use to crime and juvenile delinquency, the social aspects of use, and the relationship between marihuana and the use of other drugs. This is fine, but it is a pretty broad sweep of the brush.

In contrast, my amendment uses a rifle shot approach. The report will be

focusing only on the health consequences of using marihuana.

In my judgment, the Senate can approve the amendment which I offer today and the Committee on Marihuana and still be consistent.

If we are forced to choose between them, however, the statement of Dr. Yolles, Director of the National Institute of Mental Health, before a House committee is pertinent:

There are few fields in which there have been so many competent and thorough investigations by committees and commissions over the years as there have been in the area of narcotics and dangerous drugs.

I see no need to establish another committee or commission to study marihuana.

In contrast to establishment of another commission, I would favor provisions to direct NIMH to conduct research and make a basic determination on marihuana.

CONCLUSION

To summarize, Mr. President, there is a desperate need to bring a sense of order to the marihuana debate.

As one of our witnesses so aptly stated regarding the many research studies underway about marihuana:

Most of us know only that they exist, but don't know which one is in favor and which one is against this, that or the other thing.

My amendment requires a periodic compilation and judgment by health experts on the state of health knowledge from private and publicly financed research. As I said in December, what I am asking for is an authoritative decision—regularly updated—on whether marihuana can be given a clean bill of health.

In the January 25, 1970, article, Surgeon General Steinfeld responds, and I quote:

Medically speaking, I *cannot* give it a clean bill of health.

With continuing research and with interim reports to the Congress and the Nation, the Secretary and the Surgeon General can move forward to separate truth from fiction. Only a report with their imprimatur can meet the desperate need in this country for accurate, reliable and credible information.

In the meantime, evidence before our subcommittee to date points up too many variables, too many unknowns, too many risks, for anyone to be experimenting with marihuana.

I doubt very much whether there is any opposition to this amendment. It does not require the expenditure of any funds. It has the backing of health officials who testified before the committee, the Surgeon General, the Assistant Secretary for Health, and a number of independent witnesses who testified that this is something we badly need.

Time is of the essence and I hope the manager of the bill would agree to having this amendment added.

EXHIBIT 1

S. 3190—MARIHUANA AND HEALTH ACT

(Representative testimony received by Senate Special Subcommittee on Alcoholism and Narcotics and full Senate Labor and Public Welfare Committee)

Dr. Jesse Steinfeld, Surgeon General: "I think it is excellent. I think the annual reports on smoking and health have proved extremely useful, and I would hope that a report on marihuana would be most useful in bringing information to the public and forming a broad foundation from which we can teach and launch new research."

Dr. Roger Egeberg, Assistant Secretary for Health & Scientific Affairs, HEW: "My whole section of HEW is warmly in favor of this."

Dr. Henry Brill, Chairman, Committee on Alcoholism and Drug Dependence, American Medical Association: "I think it is very important that we know the ongoing situation with respect to this epidemic (marihuana) as we would attempt to control any other epidemic, and I would feel that an updated report would be important for epidemiological purposes, for educational purposes, and with respect to control measures."

Dr. Louis West, Trustee, American Psychiatric Association, and Chairman, Department Psychiatry, USLA School of Medicine: "Well, I think this would be highly desirable. It would be more desirable if there were more data to include in the report. . . .

"I think probably in the next five years we will get some of the information we need on the long, regular use of marihuana, which simply is not available today, although I and some of my colleagues in a new research program around the country are attempting to develop such information. At the moment, I think the public should understand just how difficult it is going to be to get the kind of information we want."

Joseph Cochin, MC, Ph.D., Professor of Pharmacology, Boston University Medical School, and Chairman, Scientific Review Committee, Center for Studies of Narcotics and Drug Abuse, NIMH:

Senator HUGHES. "Do you think (the Dominick bill) would be beneficial?"

Dr. COCHIN. "Yes, I do, I think, though, provided it was based on carefully controlled studies and longitudinal studies. I think two years, as contemplated in the Dodd bill is too short a time to get an answer which would be meaningful."

Senator HUGHES. "The Dominick bill recommends a preliminary report and annual report."

Dr. COCHIN. "I think it would be a good idea."

Dr. Bernard Glueck, MC, Director, Institute of Living (a private psychiatric hospital), Hartford, Connecticut: "As I relate the provisions for a report from the Surgeon General, I would endorse this. It is badly needed information, and there is much too much misinformation in the area."

Dr. Max Fink, Professor of Psychiatry, New York Medical College: "I think there would be an advantage to having a Surgeon General's report. I think there might be a disadvantage if one set a time limit. . . .

"At least to the extent to which we have become involved with marihuana, the shortage of knowledge, the absence of information, particularly in chronic use, is so great that I do not know what such a commission could report at the present time. I think when the Surgeon General was asked to make a report on smoking, there were extensive studies available, and a committee of experts would go over these studies, hopefully, to bring out from the studies themselves what might be the essential truths. We do not have that body of knowledge or body of studies available. And, I would hope that if the Surgeon General were asked to do so that he might be given the funds with which to undertake these studies, or that this be a companion bill to S. 3562 in such a way that studies could be undertaken so that the Surgeon General could make an intelligent report annually."

EXHIBIT 2

[From the Washington Star, Jan. 25, 1970]

(By Jesse L. Steinfeld, M.D.)

(NOTE.—This is the text of a statement by Dr. Steinfeld before a meeting of the District of Columbia City Council on Jan. 16. It was a hearing on whether marijuana should be made legal and whether new ordinances are needed to alter drug penalties here.)

The complex problems of drug abuse in the United States are not restricted to a particular subgroup or minority, but can be found at all socio-economic strata—from the ghettos of the inner city to the plush environment of the suburbs. These problems do not respect any age limit. Increasingly the young represent a population at significant risk, and recently, a 12-year-old boy died in New York from an overdose of heroin.

There are, unfortunately, no scientifically reliable estimates of the extent of drug abuse, but examination of recent surveys suggests that the problem is mushrooming. As of Dec. 31, 1968, the Federal Bureau of Narcotics and Dangerous Drugs indicated that there were approximately 69,000 active opiate narcotic addicts in the United States. Admittedly, this represents a minimal estimate, since it is based solely on voluntary reporting by law enforcement agencies. Most authorities agree that the actual number of addicts is under-reported by a factor of two or three, which suggests that there may be as many as 180,000 narcotic addicts in the United States.

The number of non-narcotic drug abusers, including those dependent on barbiturates, amphetamines, hallucinogens, and the minor tranquilizers, has never been precisely determined.

Again, survey data suggest that at least 8–12 million Americans have experimented with the various preparations of the Indian Hemp plant or Cannabis sativa—the commonly available marijuana, and the more expensive hashish. On a worldwide basis, it is estimated that over 200 million individuals have tried marijuana. Indeed, next to alcohol, it is the most popular intoxicant in the world.

Marijuana is not classified medically as an addicting drug. Its sudden withdrawal in a habitual user does not produce adverse physical effects and does not result in tolerance; that is, increasing amounts are not required to produce the intended effect. In chronic users, however, psychological dependence may occur.

Cannabis sativa is a hardy weed which can grow to a height of 15–18 feet. Separate male and female plants can be easily distinguished by the casual observer. Hashish or "hash" is a golden yellow, sticky resin which is collected from the leaves of cultivated plants. It is five to eight times as potent as marijuana which consists of the flowering tops, leaves, and stems of unfertilized, non cultivated plants.

Chemical analysis has demonstrated that tetrahydrocannabinol (known at THC) accounts for the psychoactive potential of both marijuana and hashish. The THC content of the marijuana plant depends upon soil, temperature, and other climatic conditions, with plants grown in sunny, dry zones yielding the highest content of THC. THC has recently been prepared synthetically. The procedure, however, is difficult and precludes extensive clandestine efforts at mass production. At present, the illicit THC sold on the streets has been found to consist of mescaline or phencyclidine—both potent hallucinogens.

In this country, the most common form of usage is by smoking, and a deep, sustained inhalation is essential for the THC to be absorbed sufficiently to produce the desired effect. The experienced user may become intoxicated with a single puff of a high quality "joint," while novices may be unable to "turn on" with large doses of marijuana because of poor smoking technique. Marijuana is less frequently swallowed, but hashish is a favorite ingredient of many recipes, including the celebrated Alice B. Toklas brownies. Case reports of the effects of intravenous

injection of marijuana and hashish are rare, and a definitive statement cannot be made.

The onset of action after smoking is within 10–20 minutes, and the effects may persist for three hours. Smokers may maintain the intoxicated state by intermittently inhaling additional material. Even following repeated administration, tolerance to marijuana does not develop, and cross-tolerance to LSD, mescaline, and other hallucinogens has not been demonstrated. In addition, withdrawal symptoms are not observed. Thus, marijuana and hashish do not have the addictive potential of the opiate narcotics (morphine, heroin, demerol, dilaudid, codeine) in humans.

The psychic effects generally begin with a feeling of relaxation and detachment. Audiovisual sensations are intensified, with color perception often the most affected. Illusions are common, but hallucinations are rare. Time perception is altered, usually manifested by a slowing of subjective time. Emotions are loosened, with euphoria being more common than dysphoria. Inappropriate laughing jags or crying spells have been described, while anxiety and feelings of suspiciousness are rare. Thought is dreamlike and fantasy-laden, but the person can "pull himself together" when necessary and perform adequately. Some individuals experience drowsiness and feelings of hunger; others feel unable to communicate properly.

The individual is often passive and withdrawn. However, as with all disinhibiting agents, he might behave in an unrestrained, emotional manner. While marijuana does not possess aphrodisiac properties, the prolongation of subjective time may alter the perception of an erotic experience.

The most frequent physical effect in marijuana is a conjunctival hyperemia (red eye). This is not due to an irritative smoke effect because it also occurs when THC is swallowed. Contrary to the popular belief, pupil size remains unchanged. While an increase in heart rate is regularly noted, blood pressure, respiratory rate, blood sugar level, and body temperature do not change significantly. Nausea, a dry mouth from decreased salivation, and a cough from the irritant effects of the smoke are often mentioned. Only some preliminary work on the cytogenetic effects of marijuana has been completed. The drug is, however, known to cross the placental barrier. No carcinogenic activity has been attributed to marijuana.

The complications of acute marijuana intoxication are infrequent, and usually consist of anxiety of paranoid states. Any individual, especially a novice, may become confused about the changes that he is experiencing. The loss of ego controls can result in delusional thinking, usually of a suspicious, paranoid nature. The patient may panic and injure himself or others. Spontaneous recurrences of the marijuana state ("flashbacks") have been described.

Again, let me repeat that reported instances of these adverse mental effects are rare.

The argument concerning escalation of the marijuana user to more dangerous drugs is not as simple as its proponents and opponents would have us believe. A majority of heroin addicts report that they began their illicit drug career with marijuana. Nevertheless, the great majority of marijuana smokers never expose themselves to opiates. It is the chronic, heavy user (the pothead) who tends to become overinvolved in other classes of drugs; the stronger hallucinogens, the hypnotics, the stimulants, and the narcotics. The pothead, whether from suburbia or the ghetto, is a vulnerable person with feelings of inadequacy, insecurity, immaturity and impulsivity. He is the one who tends to find his way to a heroin "habit."

The National Institute of Mental Health is funding a comprehensive marijuana research program designed to eliminate current gaps in our scientific knowledge. The program has the following stages:

1. Supply.

A. For the past two years, the natural marijuana plant has been grown as a cultivated crop by the University of Mississippi. Currently, nine different strains of Cannabis sativa have been planted. Harvesting of the annual crop will provide a significant natural source of both marijuana and THC.

B. Contracts with private chemical companies have been secured to provide for the synthesis of 22 pounds of pure THC. Plans call for labelling the pure THC with radioactive isotopes to enable biochemists to trace the mechanics of distribution, metabolism, and excretion.

2. Animal and human studies.

A. Examination of cytotoxic effects upon liver, brain, kidneys, and respiratory system will be studied after acute and chronic exposure to marijuana and pure THC.

B. Studies of the carcinogenic and teratogenic effects of both THC and marijuana are being pursued.

C. Behavorial aberrations with respect to learning, memory, perception, and psychomotor performance will be studied after acute and chronic exposure to marijuana and THC.

3. Epidemiology.

A. Social psychological surveys of marijuana users in the United States are necessary in order to determine group and individual factors which initiate, maintain, and reinforce drug-taking habits.

B. Similar studies in the Middle East and India, with natives in both regions used as control populations, would provide valid data for cross-cultural comparisons.

The history of marijuana control legislation is a matter of record, and I will not pursue it here. The major point I wish to make is that in the case of marijuana, legal penalties were originally assigned with total disregard for medical and scientific evidence of the properties of the drug or its effects. I know of no clearer instance in which the punishment for an infraction of the law is more harmful than the crime.

Further research is needed to elucidate both the short and long-term physical and psychic effects of marijuana.

At present, the absence of valid scientific data should not lead to the assumption that long-term indulgence is harmless. As in the case of tobacco and alcohol, it is possible that there are serious consequences of chronic use that will only become apparent through careful studies.

I am particularly concerned about the potential effect of a reality-distorting agent on the psychological development of an adolescent user. We all agree that normal adolescence is a time of psychological turmoil, and that patterns of coping with reality developed during the teen-age period are significant in determining adult behavior. The repeated use of a drug that serves to alter reality during this critical developmental period is likely to seriously compromise the individual's future adjustment to our complex society.

It is unfortunate that continued, exaggerated emphasis on the supposed toxic effects of marijuana make it extremely difficult to tell people about the real demonstrated risks of drug abuse. If young people were convinced that efforts to reform the drug laws were sincere and based on scientific evidence, I feel confident they would be more receptive to and less cynical about information on possible harmful effects of drugs. There is no doubt that the scare techniques which have been used by some in the past have now been discredited. The lesson is quite clear: abusing known information is worse than denying our collective ignorance.

In my judgment, Mr. Chairman, even though marijuana is certainly not the horror it is alleged by some to be, it is a drug having a capacity to alter mood, judgment, and functional ability. I believe that until research on the long-term effects of marijuana and other forms of Cannabis is completed, use of the drug should continue to be controlled. *Medically speaking, I cannot give it a clean "bill of health."* But penalties for its use should be consistent with the danger and risk to the individual and society.

Mr. YARBOROUGH. Mr. President, I accept the amendment of the distinguished Senator from Colorado and commend him on his work and leadership in this field.

Although normally we might not add this title to a hospital bill at all, the problem is growing so rapidly and is so monumental that I think we should try to reach the problem wherever we can and in whatever measure we can attempt to reach the problem. In every city in my State where there is a gathering of any size, this problem is mentioned to me.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Iowa (Mr. HUGHES) has been an outstanding leader in the field of narcotics. By necessity he is absent from the Senate today. However, he has prepared a statement in support of this amendment, and I ask unanimous consent that his remarks be printed at this point in the RECORD.

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

Mr. HUGHES. Mr. President, the distinguished junior Senator from Colorado has been one of the hardest working and most dedicated members of the Subcommittee on Alcoholism and Narcotics, of which I am Chairman. I am personally appreciative of the long hours he has devoted to our committee hearings and to his independent study and investigation of the drug problem. The amendment he offers today is the product of extensive study and informed thought on the subject.

A year ago, government health authorities were estimating that six to 12 million persons in this country were using or at least experimenting with marihuana. Now the estimates range from twelve to twenty millions. There can be no question about the use of this hallucinogen being a matter of nationwide concern.

There is a great deal of confusion in the public mind—and among the professionals, as well—about the the effects of marihuana on human health. Some experts consider cannabis highly dangerous and psychologically addictive. Others consider it comparatively harmless.

While there is a dearth of authoritative research on the subject, the public prints are filled with a bewildering variety of opinions.

The average American who is trying to arrive at a common sense judgment about marihuana and its possible health hazards so that he can deal with its use in his community or his own family, has no one spot to which he can turn for reliable information.

This amendment would fill that information gap with official reports which would come from the governmental source qualified to speak most authoritatively on health matters—the Department of Health, Education, and Welfare.

By requiring the first report by January 31, 1970, the amendment emphasizes the importance and urgency which Congress places on the need for information in this area. The provision for annual reports thereafter will assure concerned citizens throughout the land of a continuing source of professional up-dated information on this vitally important subject.

Mr. President, I would like to commend

the Senator from Colorado for introducing this amendment and for thus responding to a widely recognized public need.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado to the committee amendment.

The amendment to the amendment was agreed to.

The PRESIDING OFFICER. The committee amendment is open to further amendment.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. DOMINICK. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

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

The amendment is as follows:

On page 42, line 22, insert "may make loans to be sold and guaranteed and" immediately after "1975,".

On page 43, line 1, insert immediately before the period the following: "*Provided*, That when such loans made by the Secretary are sold on a guaranteed basis, the interest or other income thereon, notwithstanding the provisions of section 103(a) of the Internal Revenue Code of 1954, shall not be tax-exempt for income purposes under Federal law."

On page 43, line 1, insert immediately after the period the following new sentence: "The Secretary is authorized to make agreements with respect to servicing obligations held or guaranteed by him under this subsection and purchasing such guaranteed obligations on such terms and conditions as he may prescribe."

On page 45, line 21, insert "loan or" immediately after "a".

On page 49, line 4, insert immediately after the period the following new sentence: "With respect to guarantees of loans made by the Secretary under section 621, the Secretary shall pay that portion of the interest which he determines necessary to reduce the effective rate paid by the borrower to a rate comparable to the rates on other loans guaranteed by the Secretary under section 621.".

On page 49, line 13, strike out "$400,000,000" and insert in lieu thereof "$500,000,000".

On page 49, line 14, strike out "$800,000,000" and insert in lieu thereof "$1,000,000,000".

On page 49, line 15, strike out "$1,200,000,000" and insert in lieu thereof "$1,500,000,000".

On page 49, line 16, strike out "$1,600,000,000" and insert in lieu thereof "$2,000,000,000".

On page 49, line 17, strike out "$2,000,000,000" and insert in lieu thereof "$2,500,000,000".

On page 49, line 18, strike out "$2,400,000,000" and insert in lieu thereof "$3,000,000,000".

On page 49, line 25, beginning with the word "any", strike out all through the word "under" on page 50, line 1.

On page 50, line 1, strike out "so".

On page 50, line 4, insert "make loans pursuant to section 621 and to" immediately after "to".

On page 50, line 4, insert "other" immediately after "provide".

On page 50, line 4, insert "required" immediately after "capital".

On page 50, line 5, insert immediately after the period the following new sentence: "There shall be deposited into the fund amounts received by the Secretary as interest payments or repayments of principal on loans and any other moneys, property, or assets derived by him from his operations under this part, including any moneys derived from the sale of assets.".

On page 58, between lines 15 and 16, insert the following:

(b) The first sentence of section 302(b) of such Act is amended by inserting after the first semicolon the following: "and to purchase, service, sell, or otherwise deal in any loans made or guaranteed under part B of title VI of the Public Health Service Act;".

Mr. DOMINICK. Mr. President, during the process of consideration of this particular bill, we had rather extensive discussions in the committee. The discussions centered largely on the question of whether the Federal Government should initiate a new program which concerns the guarantee of loans to public hospitals, which we have never authorized before.

It became apparent, in the process of the discussions, that the difficulty was the need for our public institutions to receive funds, the tightness of the budget, the probable inability to get enough in the way of appropriations to provide direct loans in the volume that was needed.

Therefore, the committee initially agreed—with my exception—to go ahead on the guarantee of public loans to public hospitals. I kept searching for alternatives, because it seemed to me that by going this way, as I indicated in my individual views, we were embarking on a whole new course which could have a serious, disruptive effect on bond issues of other local entities, such as school bonds, and sewerage bonds, and that eventually could create a new type of bond which could further restrict the marketability of other Federal bonds to finance the debt of the Treasury.

Consequently, we came up with a new program to substitute for the so-called guarantee of loans to public institutions.

This is not easy to explain, but I think perhaps I can do it rather succinctly, and then, if I may, put in a prepared statement which will detail it more directly.

These amendments propose that the Federal Government shall establish a fund from which the Secretary of Health, Education, and Welfare will make a loan to a public hospital at a low interest rate. That public hospital, in turn, will issue the obligation representing that loan back to HEW, which will then increase the interest rate, guarantee the obligation and sell it to a private investor on a taxable basis.

By so doing, the Federal Government is in fact only financing the difference between the amount of interest paid by the public hospital and the amount paid by the Secretary of Health, Education, and Welfare in order to make this a competitive, marketable security in the private investment field. It will, therefore, save money, as far as we can see, for State and local governments which are seeking funds to expand their hospital care facilities; it will save money for the Federal Government; and it will provide a marketable security in the private market, which is a taxable security but which past experience indicates is competitive and can be marketed rather freely.

Most importantly, this amendment will provide loans at a lower rate of interest to the public facility than that provided under simple loan guarantees in the committee bill.

For that reason, and because I think it gives us an opportunity to provide much more in the way of funding to the hospitals which need it so desperately, I am offering this amendment as a substitute.

Let me, if I may for the record, try to outline the points that I think are important here.

This amendment will authorize the Secretary of Health, Education, and Welfare to purchase and sell, with its guarantee, obligations to finance construction and modernization of publicly owned medical facilities, provided, that when such loans are sold on a guaranteed basis the interest will be taxable for Federal income tax purposes.

It will authorize, in effect, payment of interest subsidies on such public medical facility loans sufficient to reduce the effective rate paid by the borrower to a rate equal to rates paid by private nonprofit borrowers under H.R. 11102.

It will authorize a loan fund out of which such loans will be made including payment of interest and into which will be deposited payments of interest and principal and moneys received from the sale of the loans or assets. This loan fund will also be used to pay interest subsidies on private nonprofit medical facility loans.

It will be used to increase the total annual authorization of public and private nonprofit loans from $400 million to $500 million.

It will authorize the Federal National Mortgage Association to purchase, service, sell or deal in such loans offered for sale by the Secretary of Health, Education, and Welfare under this part B of title VI of the Public Health Service Act.

We put in that last provision so that, in the event there should be any shortage in the market of private investors coming into this field, we would have the support of one of the existing agencies of Government to make sure that this would be a revolving fund, so that the money could be turned around in a year, or at a rather rapid rate.

At this point, I ask unanimous consent that the full statement I have prepared, together with accompanying documents, be printed in the RECORD.

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

STATEMENT OF MR. DOMINICK

Mr. President, the amendments I am proposing to H.R. 11102, as amended, offer an alternative method of providing loans for the construction and modernization of public hospitals and medical facilities. Quite simply stated, this program authorizes the Secretary of HEW to make loans to States and political subdivisions at a low rate of interest equal to the rate paid by private nonprofit borrowers under the Committee bill. The Secretary then sells that loan obligation or bond on the open market at a higher, market rate of interest, using the

funds obtained to make additional loans. The only cost to the Federal government is the initial seed money to make the first loans and the difference between the interest paid by the public borrower to HEW and the higher interest paid by HEW to the private purchasers of public bonds. Much of these costs are offset by increased tax revenues because the interest paid by HEW to the private purchaser is taxable.

The Committee bill recognizes the pragmatic limitations of the grant program. Limited appropriations, rising construction costs and the rapidly increasing need for more and better health facilities in both rural and urban areas require some form of loan assistance from the Federal government.

The simplest means of providing that assistance is loan guarantees with interest subsidies, to offset current high interest costs. The Committee adopted this program for private nonprofit hospital construction.

Assistance is also needed, however, for construction and modernization of public hospital and medical facilities. The Committee bill proposes two solutions to aid public financing of hospital construction-loan guarantees, with no interest subsidies and low cost direct loans requiring annual appropriations for both principal and interest. I object strongly to loan guarantees for publics because they can create serious adverse effects in the public bond market for Federal, State and local governments and as proposed in the Committee bill are inequitable. Private nonprofit borrowers receive interest subsidies. As a result they receive significantly lower interest rates than those paid by public borrowers.

The direct loans are faced with the same practical limitations as grants. There are not sufficient Federal funds to provide the needed assistance for public hospital construction and modernization. Public authorities should receive $100 million to $150 million of assistance annually when compared to the $400 million originally proposed for private nonprofit construction and modernization. The fiscal year 1971 budget contains a proposal for $30 million for this program in anticipation of Congressional authorization.

My amendments propose a third alternative which would loan money to State and local governments at the same cost paid by private nonprofit borrowers under the Committee bill. This avoids the inequity inherent in the Committee bill. They avoid the adverse effects of the Federal government guaranteeing a tax-exempt public issue. They avoid the requirement of annual appropriations for the principal amount of funds to be loaned. The interest subsidy costs must be appropriated each year but these costs are substantially offset by increased federal tax revenues as the interest paid to the holders of the loans by HEW is taxable.

The main features of these amendments are:

1. To authorize the Secretary of HEW to purchase and sell, with its guarantee, obligations to finance construction and modernization of publicly owned medical facilities, provided, that when such loans are sold on a guaranteed basis the interest will be taxable for Federal income tax purposes.

2. To authorize, in effect, payment of interest subsidies on such public medical facility loans sufficient to reduce the effective rate paid by the borrower to a rate equal to rates paid by private nonprofit borrowers under H.R. 11102.

3. To authorize a loan fund out of which such loans will be made including payment of interest and into which will be deposited payments of interest and principal and moneys received from the sale of the loans or assets. This loan fund will also be used to pay interest subsidies on private nonprofit medical facility loans.

4. To increase the total annual authorization of public and private nonprofit loans from $400 million to $500 million.

5. To authorize the Federal National Mortgage Association to purchase, sell or deal in such loans offered for sale by the Secretary of HEW under this part B of title VI of the Public Health Service Act.

Under other provisions of the Committee bill the total authorized loans are allotted to each State on a need formula. The State Agency apportions the loans between private nonprofit facilities and public facilities. Loan applications are also approved by the State Agency and forwarded to the Secretary for approval. Approval of the Secretary is based on statutory requirements and not on a predetermined mix of public and private nonprofit loans. Generally speaking between 25–30% of the hospital beds nationwide are public. This percentage will vary from year to year and State to State.

Under my amendments, State and local governments are not required to give up their privilege to issue tax-exempt bonds. These bonds have been proven effective as a means of raising public revenues at low cost to the State and local taxpayer. Bonds or obligations offered to the Secretary of HEW would be identical to those offered on the public tax-exempt bond market. The interest will be lower but there are no strings attached for the public borrower. The investor purchasing the bonds or loan obligation from the Secretary waives his tax exemption. The State or local government does not waive its right to issue tax-exempt obligations. All privileges and options of the State or local governments are retained.

Congress retains its control on these programs by authorizing in Appropriations Acts each fiscal year the amount of loans the Secretary may make. Congress must also appropriate funds each year to cover the interest costs.

State and local governments generally borrow money through the issuance of tax-exempt bonds. IRS regulations exempt the holder from payment of tax on the interest.

Under the Committee bill a private nonprofit borrower, in addition to a federal guarantee of payment, receives an interest subsidy of ½ the first 6% and ⅓ of the amount over 6%. The current rate for such loans is 8½% to 9%. At 9% the subsidy is ⅓ of the first 6%, or 3%, and ⅓ of 3%, or 1%, for a subsidy of 4%. The borrower pays 5%.

A simple loan guarantee will not significantly reduce the rate on a prime municipal bond. The current rate is 6% to 6½%. This means that a private nonprofit borrower, in the same community, could borrow money at 4.7 to 5%, while the local government would be borrowing money at 6 to 6½% for construction and modernization of medical facilities. I know this was not the intent of the Committee. This result is inherent in the Committee bill, however, because of the yield spreads of 2–3% between the money market for private nonprofit borrowers and prime municipal bonds. My amendments provide that the Secretary of HEW shall charge the same rate of interest to public borrowers as the effective rate paid by nonprofit borrowers with the interest subsidies. Hospital bonds are generally long-term. High interest rates increase the debt service costs and could therefore effect a community's growth beyond a single generation. Under these amendments the loan is cheaper for the taxpayer.

Federal guarantees of tax-exempt public bonds can have adverse effects on this limited market. All factors being equal in the public bond market, federal guarantees will not significantly reduce the rates paid on prime, tax free State and local bonds. It will give them a favored position in an already limited market. This can mean higher rates for other bond issues for water, sewer, schools, etc.

In late 1969, State and local bonds, were drawing near record high yields. Prime and good bonds were paying as high as 6½% to 7%. Some issues were even higher. Commercial banks which had been purchasing large amounts of these bonds in past years, were liquidating holdings to acquire additional funds. These sales were competing with new issues. Many State and local governments could not sell their bonds at all because of legal limits prohibiting paying rates in excess of 6%. In all, almost 590 offerings were withdrawn totaling $2.9 billion. Overall, new long-term issues were down approximately $4.6 billion from 1968. I ask unanimous consent to insert a table at this point in the Record showing supply and demand for State and local securities for the years 1965 through 1969, prepared by Solomon Brothers & Hutzler from their 1969 Annual Review of the Bond Market.

TABLE XI.—SUPPLY AND DEMAND FOR STATE AND LOCAL SECURITIES

[Billions of dollars annual volume]

	1965	1966	1967	1968	1969 estimate
Total new money new long issues	12.0	10.9	14.2	16.1	11.5
Less maturities	5.3	5.9	6.4	6.9	7.4
Net increase in long-term debt	6.7	5.0	7.8	9.2	4.1
Plus net increase in short debt	.6	.7	2.0	.8	4.2
Change in total outstanding	7.4	5.7	9.8	10.0	8.2
Net increase in ownership:					
Nonbank institutions	—.3	.2	1.4	.7	1.1
Commercial banks	5.1	1.9	9.0	8.7	—2.0
Business corporations	.5	1.0	—.4	.4	4.7
Residual: Individuals and miscellaneous	2.1	2.6	—.2	.2	4.4
Total net change in ownership	7.4	5.7	9.8	10.0	8.2

February and March, 1970, have seen some easing of the pressures on this limited market and projections for 1970 are more encouraging. Under these conditions, it does not seem advisable to interject direct Federal intervention in this market. Such intervention, in addition, could create inequities and increased pressure on other State and local government bond issues.

Loan guarantees for State and local hospital bonds will immediately create pressures for the Federal Government to underwrite or whatever. This would nullify any advantage gained for hospital construction. This is not the best solution to State and local government financing.

There are other reasons for my objections to loan guarantees which are set out in my individual views in the Committee report on this bill. Those views also contain a letter from Secretary of Treasury, David M. Kennedy, and a formal statement by the Treasury Department which were presented at the hearings on this legislation.

The material follows:

THE SECRETARY OF THE TREASURY,
Washington, June 4, 1970.

Hon. ROBERT H. FINCH,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR BOB: I am deeply concerned with the proposal by the House Committee on Interstate and Foreign Commerce that the Federal Government guarantee the payment to private investors of interest on obligations of public bodies which is exempt from Federal income taxation. Such a provision appears in the proposed new section 621(a) of the Public Health Service Act, which is incorporated in the Medical Facilities Construction and Modernization Amendments of 1969 (H.R. 11102) reported by the committee on May 20, 1969.

The report of the committee recognized that the Treasury Department opposes such

Federal guarantees of tax-exempt obligations, and the report cited the arguments made against such guarantees in the 1962 report of the President's Committee on Federal Credit Program: (1) the cost in tax revenues to the Federal Government would generally exceed the benefits of tax exemption received by borrowers; (2) such federally guaranteed tax-exempt securities would be superior to direct Federal obligations themselves, and their increasing volume would adversely affect Treasury financing; and (3) the availability of increasing amounts of high-grade, tax-exempt issues would tend to attract funds from investors that should appropriately seek riskbearing opportunities. The House committee stated that it agrees with the substantial validity of these arguments but was of the opinion that competing considerations outweighed them. In light of the problems in the tax-exempt market and the undersirable precedent which would be set by acceptance of this legislation, I feel that I must recommend against this action.

Encouragement by the Federal Government of an additional volume of tax-exempt obligations will add to the present extreme pressures on the tax-exempt bond market and will tend to increase the interest rates which all State and local borrowers will be required to pay. The municipal bond market is especially vulnerable to such competition from Federal programs because of the limited nature of that market.

Moreover, as you know, there is currently a great deal of sentiment in the Congress and elsewhere for tax reform, including the problem of tax-exempt interest on municipal bonds. While it is a very complicated problem, which I will not attempt to discuss here, I am sure you would agree that the Federal Government should not be adding to the problem by encouraging an additional volume of tax-exempt bonds through the device of a Federal guarantee.

My concern with tax-exempt guarantees goes beyond the hospital financing program. There have been many recent proposals for Federal guarantees of municipal bonds for a wide variety of capital projects for health, education, transportation, housing, and other public facilities. The Treasury Department has successfully resisted this proposed method of financing new programs, and it would be extremely difficult to approve this financing device for one purpose and at the same time hold the line against its widespread use in other areas—which I am firmly convinced would not only be bad tax and debt management policy but would be a great disservice to the States and localities themselves.

As you know, we have under active consideration a number of proposals to assist States and localities, ranging from revenue sharing plans to specific assistance to high priority programs such as the financing of health facilities. Moreover, we are considering other means of alleviating pressures on State and local financing in the tax-exempt bond market, and I believe it would be counter to our efforts in this regard if new programs of guaranteed tax-exempts were authorized now.

Sincerely,

DAVID M. KENNEDY.

TREASURY OPPOSITION TO FEDERAL GUARANTEES OF TAX-EXEMPT OBLIGATIONS

The Department is opposed to Federal guarantees of tax-exempt obligations for four fundamental reasons: (1) such guarantees conflict with Federal debt management policy by creating a class of securities which the Federal Government is prohibited from issuing by the Public Debt Act of 1941; (2) such guaranteed obligations heighten competition for the limited funds available to state and local borrowers from high tax bracket investors and increase financing costs for other public projects for which Federal credit aid is not provided; (3) the tax exemption disproportionately benefits high income investors; and (4) tax exemption is an inefficient subsidy since the Federal tax revenue loss exceeds the interest savings of the borrower.

Federal guarantees of tax-exempt obligations create highly marketable debt issues substantially more attractive to many investors than Treasury bonds. The Federal guarantee would assure the investor against the risk of default, just as in the case of Treasury bonds. A very large amount of debt, with the credit risk largely or entirely underwritten by the Federal Government, is already outstanding, and the volume can be expected to grow. The diversion of the interest of many investors from direct Treasury issues to guaranteed issues has in itself created some serious new problems for debt management, even though the great bulk of this guaranteed debt is not so readily marketable as Treasury obligations and may entail significant servicing costs or other disadvantages. Moreover, guarantees for one purpose could lead to strong pressures to extend Federal guarantees to tax-exempt state or municipal bonds issued for other purposes, each perhaps clearly desirable in itself. Over $130 billion of state and local government obligations are outstanding today, with the total having risen by an average of more than $7 billion per year over the past decade, and by an even larger amount in recent years. And end to that upward trend is not yet in sight. Should any significant fraction of that growing total eventually have the benefit of a Government guarantee, in addition to tax exemption, the position of any Secretary of the Treasury charged with responsibility for the management of the Federal debt would quickly become—at the least—extremely difficult.

Encouragement by the Federal Government of an additional volume of tax-exempt obligations would also add to the heavy and growing pressures in the tax-exempt bond market. Assigning a Government guarantee to a portion of tax-exempt issues would assure them favored treatment in that market over the other obligations of State and local borrowers. The result would be to increase the interest costs of other such borrowers on nonguaranteed issues. The municipal bond market is especially vulnerable to such competition from Federal programs because of its limited nature.

There is currently a good deal of sentiment in Congress and elsewhere for tax reform, including the problems created by tax-exempt interest on municipal bonds. While this problem raises complicated issues which have not yet been resolved, it is not desirable that the Federal Government add to any inequities that may exist by encouraging an additional volume of tax-exempt bonds through the device of a Federal guarantee.

Exemption from Federal income taxation of interest on obligations issued by State and local governments involves a subsidy in the form of revenue loss to the Treasury. Not only is the amount of this subsidy not explicity accounted for in any budgetary way, but it represents an inefficient subsidy in that the savings in borrowing costs for the State and local governments are less than the revenue loss to the Federal Government resulting from the tax exemption.

PETER H. DOMINICK.

CONTINUATION OF STATEMENT OF MR. DOMINICK

We are faced with this problem. If loan guarantees for State and local tax exempt bonds are not an acceptable means of loan assistance for public hospitals and direct loans are limited because of a limited Federal budget, how can we best offer loan assistance for construction and modernization of public medical facilities? The program proposed by these amendments simply authorizes the Secretary of HEW to make a direct loan to a public authority at low interest rates, equal to those paid by private non-profit borrowers with interest subsidies. The Secretary then sells the loan to private investors at the current market rate of interest.

These amendments also raise the total amount of loans which can be made annually, both private non-profit and public, from $400 million to $500 million. S. 2182 originally authorized $400 million of loans a year for private non-profits and $150 million a year for publics through direct loans. The Committee amendments added loan guarantees for publics to the $400 million annual authorization but did not increase the authorization proportionately.

I should also add that loan allotments will be made to each of the States on a need formula. Each State must then apportion its available loan money between private nonprofit and public medical facilities. In addition to acute bed and general hospitals, these funds are available for construction and modernization of long term care facilities, rehabilitation facilities and "outpatient" facilities or community health centers.

The Administration is strongly opposed to loan guarantees for public facilities in both the House and Senate Committee bills. At the time of the hearings, they favored direct loans as the better of the two programs. The Administration fully supports the alternative proposed by these amendments. I ask unanimous consent to insert in the Record at this point, letters setting out that support from the Department of Health, Education, and Welfare, the Department of the Treasury, and the Bureau of the Budget.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C. March 27, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: This is to advise you that we support your amendment to Title VI of the Public Health Service Act which would provide a capital financing mechanism to affirmatively assist the Nation's publicly owned health facilities in their new construction and modernization needs. The amendment will make it possible for the Department to increase its efforts in overcoming the existing backlog of health facility needs, while at the same time encouraging a community-level balance of types of health facilities. As you know, this proposal would permit the Secretary of Health, Education, and Welfare to purchase and sell, with a Federal guarantee, obligations to finance publicly owned health facilities provided that when such loans are sold on a guarantee basis they will not be tax exempt for Federal income tax purposes. The proposal would further authorize the payment of interest subsidies on such guaranteed taxable public health facilities loans sufficient to reduce the effective return paid by the borrowers to a rate comparable to rates paid by privately owned non-profit health facilities under H.R. 11002.

The proposal provides an effective alternative to the simple guaranteeing of loans floated by publicly owned health facilities. That is, within the parameters of sound monetary policy, it provides a degree of financial assistance to capital expansion or modernization for publicly-owned health facilities which would not be available under a program which contains only loan guarantees to the publicly-owned health facilities.

Accordingly, we support this provision.

Sincerely,

BOB FINCH,
Secretary.

THE SECRETARY OF THE TREASURY,
Washington, D.C., April 2, 1970.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: I want to take this opportunity to confirm the Administra-

tion's strong support for the amendments you intend to propose to the guaranteed loan provisions of the hospital construction bill, H.R. 11102, soon to be considered by the Senate.

Your amendments will provide an alternative method for financing the borrowings of public hospitals which avoids the problems, which you so ably discussed in the Report of the Committee on Labor and Public Welfare, associated with the Federal guarantees of tax-exempt obligations proposed in H.R. 11102. Your amendments would result in over-all savings to the Federal Government and the local public sponsor combined, as compared to guaranteed tax-exempt financing.

Your amendments will also assure equal benefits to public and privately sponsored facilities and will reduce the financing cost otherwise payable by public sponsors of such facilities under H.R. 11102.

I strongly urge that the amendments be adopted by the Senate.

Sincerely yours,

PAUL A. VOLCKER,
Acting Secretary.

BUREAU OF THE BUDGET,
Washington, D.C.

Hon. PETER H. DOMINICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOMINICK: We understand that you will be presenting for Senate approval amendments to the guaranteed loan provisions of the pending hospital construction bill (H.R. 11102) when the bill is considered on the Senate floor.

These amendments would:

(a) Authorize the Secretary of Health, Education, and Welfare to purchase and sell with a Federal guarantee obligations to finance publicly-owned medical facilities provided that when such loans are sold on a guaranteed basis they will not be tax-exempt for Federal income tax purposes;

(b) Authorize the Secretary to pay interest subsidies on such guaranteed loans sufficient to reduce the effective rate paid by the borrower to a level comparable to the cost for private non-profit hospitals under the pending legislation; and

(c) Increase the total annual guarantees of medical facility loans from $400 million to $500 million in order to provide additional funds for public institutions without requiring more heavily subsidized direct loans.

In our judgment, these amendments would provide a much better method of financing the construction of public hospitals than the provisions now in the legislation, by eliminating the proposed authority for Federal guarantees of tax-exempt obligations, and by reducing the net financing cost both to the Federal Government and to the local public agencies sponsoring the projects.

Accordingly, we strongly support adoption of these amendments.

Sincerely,

JAMES R. SCHLESINGER,
Acting Deputy Director.

Copies of this chart are available to each Senator on his desk.

Under the loan guarantee provisions for public institutions the public sponsor of the medical facilities would borrow from private investors at an interest rate approximating the interest rates determined in the market for comparable quality tax exempt obligations. The current average rate is approximately 6% for a comparable bond. This would result in annual debt service (principal and interest) payable by the public sponsor of $77,700 on a $1 million loan. Because of the tax exemption of the interest on the obligation issued by the public sponsor, the Federal Government would not receive any additional tax revenue. These figures appear in Column (A) of the chart.

Under the proposed amendments, the public sponsor would borrow directly from the Secretary of HEW. The Secretary would establish the interest rate on the loan at a rate comparable to the effective rate (gross interest rate less interest subsidy payable by the Secretary) paid by private non-profit borrowers on loans guaranteed as provided in the Committee bill. The Secretary would finance his lending activity by selling the Federal loan asset thus obtained on a guaranteed taxable basis. The Secretary would pay from appropriated funds the additional interest necessary to sell the loan at market interest rates. The current average market rate for comparable obligations is approximately 8.5%. This means the rate charged to the public borrower under the Senate bill would be 4.7%. The rate under the House bill would be 5.5%.

I feel it would be helpful to show specifically how these amendments would work by showing the comparative costs for a public borrower of $1 million through tax exempt bonds at the best current rate and under these amendments. I have prepared a chart showing the annual and total debt service costs on a $1 million loan assuming a current rate of 6% for prime municipal tax exempt bonds. These figures appear in Column (A). I have also compared those costs under the flat 3% interest subsidy rate in the House bill. These figures appear in Column (B). The figures under the Senate bill appear in Column (C). The chart further assumes a borrowing rate of 8½% for private non-profit hospitals. This is also the current rate obtainable on comparable federal obligations as would be sold by the Secretary under these amendments. I ask unanimous consent that this chart be printed in the RECORD at this point.

COMPARATIVE COSTS, PER $1,000,000 OF LOAN, OF FINANCING PUBLIC MEDICAL FACILITIES UNDER H.R. 11102 AS PASSED BY THE HOUSE, AS REPORTED TO THE SENATE, AND AS PROPOSED TO BE AMENDED BY SENATOR PETER H. DOMINICK

[Dollars in thousands]

	H.R. 11102 guaranteed tax-exempt financing[1]	Proposed amendment, guaranteed taxable financing[2]	
		House interest subsidy	Senate interest subsidy
	(A)	(B)	(C)
Annual debt service payment	[3] 77.7	[4] 97.1	[4] 97.1
Total debt service over 25 years	1,942.5	2,427.5	1,427.5
Annual debt service payable by project sponsor	77.7	74.1	68.2
Total over 25 years	1,942.5	1,852.5	1,705.0
Federal interest subsidy payment:			
Annual payment		23.0	28.9
Less: annual equivalent tax receipt		26.9	26.9
Equals: net annual cost or saving (—)		—3.9	2.0
Total 25 year net Federal cost or savings (—)		—97.5	50.0
Total cost to project sponsor and Federal Government:			
Annual payment	77.7		70.2
Total debt service over 25 years	1,942.5		1,755.0

[1] Guaranteed tax-exempt borrowing by public institutions with no direct Federal interest subsidy, as in House-passed and Senate-reported versions of H.R. 11102.

[2] Guaranteed taxable financing by means of Federal sales to private investors of loans to public institutions under the proposed amendment.

Assumptions:
- Guaranteed taxable rate=8.5 percent.
- Treasury borrowing rate=7 percent.
- Guaranteed tax-exempt rate=6 percent.
- Tax receipts=40 percent of taxable interest.
- Column (B): Federal share of interest=3 percent. Non-Federal share of interest=5½ percent.
- Column (C): Federal share of interest=3.8 percent. Non-Federal share of interest=4.7 percent.
- Loan maturity=25 years.
- Semiannual level payments.

[3] 6 percent.

[4] 8.5 percent.

If the interest subsidy proposal in the House-passed version of the bill is adopted, the proposed amendments would result in annual debt service payable by the public sponsor of $74,100 on a $1 million loan. The annual Federal interest subsidy would be $23,000, but because the loan would be sold on a guaranteed taxable basis, the Federal Government would receive additional tax revenues of $26,900. Under this approach, the annual savings, as compared to guaranteed tax exempt financing, to the Federal Government and the local public sponsor combined would be $7,500—$3,600 savings for the local sponsor, and $3,900 savings for the Federal Government. These figures appear in Column (B) of the Chart.

If the interest subsidy proposal in the Senate-reported version of the bill is adopted, the proposed amendments would result in annual debt service payable by the public sponsor of $68,500 on the $1 million loan. The annual Federal interest subsidy would be $28,900, but, because the loan would be sold on a guaranteed taxable basis, the Federal Government would receive additional tax revenue of $26,900. Under this approach, the annual savings, as compared to guaranteed tax exempt financing, to the Federal Government and the local sponsor combined would be $7,500—$9,500 savings for the local sponsor, and $2,000 net interest subsidy cost to the Federal Government. These figures appear in Column (C) of the chart. Over the 25 year life of the loan, the total savings to the public project sponsor under the House interest subsidy would be $90,000. Under the Senate bill interest subsidy rate, the savings would be $237,500. Under the House rate, the Federal Government would realize a net savings of $97,500. Under the Senate rate the total cost to the Federal Government would be only $50,000.

To further illustrate the impact of these amendments, the Secretary could loan $150 million for construction and modernization of public medical facilities under the Senate rates at 4.7% to the borrower and at a total HEW budget cost of $4,335,000. The additional tax revenues from reselling the loans at higher, but taxable interest would be $4,035,000. The net annual cost to the Federal Government would be $300,000.

As I previously indicated, my amendments would not limit in any way the privilege of State and local Governments to issue tax exempt obligations. This question was thoroughly discussed by the Senate during debate on the recent tax reform legislation. The State or local Government would issue its obligations on the normal tax exempt basis. They have the option of borrowing money from HEW at a lower cost, but there are no strings attached. The ultimate purchaser of the obligation from the Secretary of HEW waives his right to claim tax exemption in return for a higher rate of interest. The State or Local Government waives none of its rights. This is an important distinction.

Let me show, by way of a typical example, what is possible under my amendments. The City and County of Denver wants to modernize and expand Denver General Hospital. They apply to the State Hill-Burton Agency for assistance. They ask for ¼ of the cost in the form of a direct Hill-Burton grant. They want a Hill-Burton loan for ¼ of the cost of the project. Assuming their application and the bond issue are approved, they will receive a grant for ¼ of the cost. They can borrow ¼ of the cost from HEW, issuing their bonds, which are tax exempt, to the Secretary of HEW. The interest rate on these bonds is 4.7%. The City can then issue the balance of the bonds on the tax exempt market. The current interest rate is 6 to 6½%. The bonds issued to the Secretary of HEW and the bonds issued on the tax exempt market are identical. When the Secretary sells those bonds to a private

individual or corporation, the purchaser will be required to waive his tax exempt eligibility. In return, he will receive a higher rate of interest. This rate would average 8½% to 9% currently.

The City gives up none of its options. The balance of its bonds are not affected by the Secretary's actions. The City will receive a lower net cost for its modernization project to the benefit of the taxpayers and patients in the City. Colorado, incidentally, is one of the States which places a 6% statutory interest rate on public borrowing.

I do not offer these amendments as panacea for the problems of State and local Government financing. They only offer a partial solution for the construction and modernization of public medical facilities. This type of loan is far better than direct Federal guarantees of tax exempt bonds. In addition, it overcomes the annual fiscal limitations of direct loans. The Committee has determined we should offer loan assistance for public construction and modernization of medical facilities. These amendments offer the most practical, reasonable and equitable way to accomplish that objective. They do so at lower cost to the State and local taxpayers and without direct Federal intervention in the tax exempt bond market.

I urge the Senate to adopt this alternative loan program. It is sound within its limited objectives. I do not offer nor support this type of program as a solution to all State and local financing. It is simply a better way to build public hospitals than Federal guarantees of tax exempt bonds and removes the uncertainty of availability of sufficient funds for direct loans to maintain the program year after year.

Mr. DOMINICK. I ask the distinguished Senator from Texas whether he would like me to go into this further, or whether, in his good judgment, he finds that this is a satisfactory approach to a very difficult problem.

Mr. YARBOROUGH. Mr. President, this matter has been worked on for many hours by the distinguished Senator from Colorado, with the staff of the committee. I know he has given it much thought, and he has worked with the people downtown on it, but I do have one or two questions.

I ask the distinguished Senator whether, on page 1 of the proposed amendment, line 6, the language "the Secretary may make loans to be sold and guaranteed" takes away the State initiating authority in this matter, whether it would make such loans subject solely to the will of the Secretary to make them, and whether the Secretary could stop all construction by declining to make the loan.

Mr. DOMINICK. No. Within the funding area, he will probably have to make allocations to the States, but he is going to be making the loans as they come in, presumably, on a first-come-first-served basis, but also on a monetary base which will reflect the incentive interest rate being paid by the private, nonprofit borrower.

Mr. YARBOROUGH. It is not the Senator's construction of these nine words he has added in that line of the amendment to mean that the Secretary is thereby given the authority just to decline to lend money?

Mr. DOMINICK. No. I see what the Senator means. Let me restate the answer.

It is my understanding that the State agency determines what the loans are going to be, just as it does under the present Hill-Burton program for grants. If they think this public facility is entitled or, within their overall State allocation, should have a loan, they approve and send that application in to the Secretary, and the Secretary then makes the loan. The Secretary simply approves the State action under the statutory requirements and makes the loan.

It is first approved by the State agency, as the Senator can see; and it must be within the overall State allocation which is established under the committee bill.

Mr. YARBOROUGH. My next question is, Do public hospitals, under this provision, fare as well as private hospitals?

Mr. DOMINICK. Yes; they fare as well. I would say no better. They fare as well because of the fact that we are subsidizing the interest rate to them. They fare better than they would under the simple loan guarantees proposed in the committee bill.

Mr. YARBOROUGH. Yes. In other words, they are not prejudiced to where they would have a more difficult time borrowing money than the private hospitals?

Mr. DOMINICK. No. I think actually they may have a slight advantage in that regard, because of the fact that, in the event the private market runs out, with a resale of these loans, we have a Government agency which is willing to take them on later, namely, HUD.

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

Mr. DOMINICK. I am happy to yield.

Mr. KENNEDY. I commend the Senator from Colorado for this new approach and for his imaginative way of reaching the problem of financing public hospitals. I think all of us who have municipal hospitals in our States are aware of the crisis they are now enduring. Boston City Hospital lost its accreditation last January, and St. Louis City Hospital lost its accreditation last fall. The accrediting committee is now reviewing very strictly the accreditation of a number of public hospitals in different parts of the country, and I think there will continue to be a loss of accreditation by many hospitals, with all that such a loss can mean in terms of participation in social security programs and many other programs.

One of the questions that concerns me about the amendment offered by the Senator from Colorado is that if we establish this new financing program, are we not engaging in the proliferation of a financing device that has an unknown effect on the bond market and on the Federal budget?

I would be interested in the Senator's comments on this problem of proliferation, and whether he has had any opportunity to discuss it with members of other committees, such as the Banking and Currency Committee or the Joint Economic Committee. I know, for example, that the administration has proposed a similar sort of new financing mechanism to help deal with problems of the environment. The Senator's amendment is really a sort of public hospital urbank, and I know that there is bipartisan support for the urbank mechanism, at least on a broad-purpose basis.

Although I am very sympathetic to the Senator's approach, I wonder whether we may be generating a broad proliferation of this kind of program with consequences we have not yet foreseen.

Mr. DOMINICK. I appreciate the support of the Senator from Massachusetts. We took this up with the Senator from Wisconsin (Mr. PROXMIRE) and talked with him at some length about it. I understand from the staff he was satisfied when we got through.

I cannot tell the Senator whether there will be a proliferation of this type of program. We do not really know whether this is going to work as well in practice as it looks on paper, because we have never done it before on a large scale.

It has the advantage of not disturbing the municipal tax exempt bond issues, and that, I think, is very important. The committee approach might have had a devastating impact on that particular situation; because, under the committee approach, these bonds would have been preferred over sewerage bonds or school bonds or anything of that kind, and I think that would have been inadvisable. This amendment does not do that. This particular system might turn out to be one of the new programs which could solve some of the financial problems involved in direct appropriations.

I cannot tell the Senator whether it will proliferate beyond that. Certainly, I do not think we ought to expand it too far. But where we have an item of such need as we have here, as the Senator from Massachusetts and the Senator from Texas have pointed out—namely, the need of our publicly owned hospitals, outpatient facilities, clinics, and all these things which are sponsored by public agencies—I think it is worthwhile going forward with this approach.

Mr. KENNEDY. I thank the Senator.

I would hope that once this amendment is adopted, the appropriate committees in Congress will at least give some review to the overall impact of this kind of approach on the Federal budget. I think this sort of study and review would be useful. As I mentioned, the administration has offered a somewhat similar approach in the proposed Environmental Financing Agency. Comparable financing mechanisms have been used in other existing programs.

Let me emphasize, however, that I think the Senator is proposing an imaginative and creative approach, and I commend him for his initiative.

I think, however, that we should be—as I know the Senator from Colorado is—extremely sensitive to the overall impact of such programs on the budget.

For example, as I mentioned, an appropriate committee might undertake an investigation of all the various techniques by which the Federal Government—through a combination of devices like interest subsidies and other subsidies, loans, loan guarantees, and other methods—helps to finance public projects and private activities. We should try to assess the impact of these financial operations on the budget accounts of the Federal Government, on its fiscal

policy, on national monetary conditions, and on the conduct of individual Federal programs.

I would that after such a study, the committee would report to Congress on whatever measures are needed to improve the overall effectiveness and accountability of this sort of Federal financial assistance.

Mr. DOMINICK. I think the RECORD should show that I would agree with the Senator from Massachusetts, that I do think we ought to look at the overall results which might occur if these programs proliferate. I happen to know that downtown, with the exception of the environmental situation to which the Senator has referred, they are anxious not to have these proliferate at this time. I think we should make the record clear that we, in Congress, do not intend to do that. We intend to take care of an immediate need with the most practical means we have.

I yield to the Senator from Texas.

Mr. YARBOROUGH. I ask the Senator if it is correct that the genesis of this amendment is that if these bonds were tax exempt and payment was guaranteed also by the Federal Government, it would give them an advantage over other tax exempt bonds, such as school bonds.

Mr. DOMINICK. The Senator is correct.

Mr. YARBOROUGH. And the purpose of lifting the tax exemption was that because of the guarantee and the lifting of the tax exemption, the fact that the Federal Government would pay for the excess amount of interest still would enable the hospital district or the charity hospital to get the money to build.

Mr. DOMINICK. The Senator is correct.

Mr. YARBOROUGH. I accept the amendment of the distinguished Senator from Colorado, and I commend him for his long and diligent work. His staff has told me how many hours they have worked with him and with the Treasury Department and with the offices downtown, in trying to get the money available for hospitals, but without destroying the imbalance that would result if we had a public authority with both tax-exempt bonds and bonds guaranteed by the Federal Government.

By this amendment, the Senator has taken away the duality of guarantees that might adversely affect part of the other bond markets.

Mr. DOMINICK. I thank the Senator from Texas.

Mr. DOMINICK subsequently said: I ask unanimous consent that the name of the Senator from California (Mr. MURPHY) be added as a cosponsor of both of the amendments I have offered, which have been accepted, and that the names of the Senator from Vermont (Mr. PROUTY) and the Senator from Maine (Mrs. SMITH) be added as cosponsors of my second amendment, dealing with the loan program.

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

Mr. PROUTY. Mr. President, I wish to associate myself with the remarks of the Senator from Colorado (Mr. DOMINICK). He has presented a most compelling analysis of the problems inherent in existing provisions of H.R. 11102, which include public medical facilities in the loan guarantee program. The Senator from Colorado has also outlined a proposal which eliminates these problems and provides for greater assistance to public hospitals. I am pleased to be a cosponsor of the Senator's amendment.

Simply put, the problem with the existing language of the bill is that we have tried to treat apples like oranges and in doing so we threaten to upset the apple cart.

Assume the oranges are the bonds of private nonprofit hospitals. Under the provisions of this bill they may be eligible for a Federal guarantee of the principal of the loan, plus a Federal subsidy of part of the interest.

Section 624 provides an interest subsidy of one-half of the first 6 percent of the interest plus one-third of the remaining interest of guaranteed loans. At prevailing rates of 9 percent for private hospital bonds, the Federal interest subsidy amounts to 4 percent bringing interest costs to borrower down to 5 percent per year.

As for the apples, the hospital bonds issued by municipalities, they too are eligible for a Federal guarantee of the principal. However, due to their tax-exempt status, they are excluded from the interest subsidy provisions of section 624.

All that a loan guarantee does for these bonds, which are selling now at interest rates of 6½ percent or more, is increase somewhat their marketability.

As for upsetting the apple cart, the municipal bond market, the introduction of a federally guaranteed tax-exempt issue would distort and add to present pressures on the market.

What the amendment of the Senator from Colorado does is to recognize the difference between apples and oranges and provide assistance for each.

As the Senator has explained, this amendment assures that public hospitals receive the same benefits offered under this legislation as private nonprofit hospitals.

It does this by authorizing an additional method of financing which will reduce the interest costs to public hospitals and which will not require either large initial budget outlays or Federal guarantees of tax-exempt bonds.

I believe the committee was correct in seeking to respond to the needs of public medical facilities. However, I disagree with the approach as contained in H.R. 11102. This amendment is much more responsive to our needs for medical facilities and the stability of the municipal bond market. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado, as modified.

The amendment, as modified, was agreed to.

Mr. YARBOROUGH. Mr. President, I call up an amendment proposed by Senators KENNEDY, JAVITS, and myself.

The PRESIDING OFFICER. The amendment will be stated.

Mr. YARBOROUGH. It was originally stated to be Senator JAVITS' amendment, but he is absent today, and I am offering it on his behalf.

The bill clerk proceeded to read the amendment.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 39, line 9, strike out "population, the financial need, and" and insert in lieu thereof "following factors: (i) the population, (ii) the square of the per capita income, and (iii)".

On page 39, line 11, strike out all that follows the word "respective" and insert in lieu thereof the following: "States. For purposes of applying the preceding sentence, the factor referred to in clause (i) thereof shall be assigned a value equal to the value assigned to the factor referred to in clause (ii) thereof, and the value assigned to the factor referred to in clause (iii) shall be assigned a value equal to one-half of the value assigned to the factor referred to in clause (i) or (ii) thereof."

Beginning on page 39, line 12, strike out all through page 40, line 9.

On page 40, line 10, strike out "(c)" and insert in lieu thereof "(b)".

On page 40, line 10, strike out "subsections (a) and (b)" and insert in lieu thereof "subsection (a)".

On page 40, line 13, beginning with the semicolon, strike out all down to, but not including, the period on page 41, line 4.

On page 41, line 5, strike out "(d)" and insert in lieu thereof "(c)".

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. YARBOROUGH. 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. YARBOROUGH. Mr. President, this changes the so-called squaring formula. There was quite a debate in the committee. The Javits amendment was adopted over my objection and the objections of the distinguished Senator from Colorado and some of the other members of the committee. This is a compromise between the one we had in the bill originally and the one adopted in committee.

Mr. President, Congress is once again taking a fresh look at the Hill-Burton program so that we may insure that this program, so effective in the past, will continue to be an effective instrument in dealing with the needs of today. In the past 2 years we have heard much discussion, in connection with proposed allotment formulas, which was couched in terms of rural versus urban. I, for one, do not view the issue in those terms. While States vary, each State has both urban and rural areas and every State has both urban and rural areas in need of assistance in the area of medical facilities.

Our objective here must be to enact legislation that incorporates an appropriate allotment formula which will enable this Nation again to meet the priorities in the health facility field wherever they exist today. That was the approach and the philosophy of the Congress in initiating this program nearly a quarter of a century ago and it must be our approach today. This can only be done by making it possible to utilize the direct measurements of need that are now available to us.

In urging the Senate of the United States to face up to the challenge of the present and pass legislation that brings the allotment formula up to date, I do not propose that we abandon past precedents altogether. We all recognize that the matter of population in each State is important and that population must remain as one element in any allotment formula. Many Senators feel, and understandably so, that the formula should continue to recognize that all States are not equally wealthy and that the formula should continue to take this into account. I agree. But it would be most unfortunate if, at this critical time for health care in the United States, we in the Congress failed to provide the means whereby the information now available concerning need could be properly utilized. Accordingly, I would suggest, indeed I most fervently urge, that this body accept a formula that incorporates all three elements—namely population, per capita income squared, and need.

I ask unanimous consent to have a table printed at this point in the RECORD.

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

ALLOTMENTS TO STATES FOR CONSTRUCTION FUNDS[1] AUTHORIZED UNDER H.R. 11102 IN 1971, AS COMPUTED VIA 2 METHODS

State	Via present Hill-Burton formula	Via proposed formula
Total	$315,000,000	$315,000,000
Alabama	8,974,869	9,099,350
Alaska	900,000	969,610
Arizona	3,164,698	2,958,378
Arkansas	5,218,129	4,541,487
California	19,474,859	17,943,505
Colorado	3,089,782	3,012,202
Connecticut	2,421,270	2,430,354
Delaware	900,000	1,059,696
District of Columbia	900,000	910,846
Florida	11,077,097	11,968,934
Georgia	9,762,761	9,960,669
Hawaii	1,162,626	1,069,477
Idaho	1,474,008	1,382,889
Illinois	10,522,076	12,373,120
Indiana	7,090,897	7,893,704
Iowa	4,058,026	4,552,059
Kansas	3,596,277	3,905,730
Kentucky	7,339,958	6,336,032
Louisiana	8,336,817	7,448,038
Maine	1,949,925	2,022,027
Maryland	4,586,928	4,452,166
Massachusetts	6,284,951	7,335,645
Michigan	10,554,414	9,959,387
Minnesota	5,590,009	4,861,472
Mississippi	6,809,811	6,480,848
Missouri	7,471,172	8,224,918
Montana	1,349,301	1,420,571
Nebraska	2,216,974	1,917,719
Nevada	900,000	969,704
New Hampshire	1,239,052	1,543,921
New Jersey	7,195,682	7,718,187
New Mexico	2,161,871	2,032,430
New York	17,530,886	20,005,521
North Carolina	11,575,217	11,340,108
North Dakota	1,378,734	1,348,720
Ohio	14,676,182	14,396,514
Oklahoma	5,040,896	4,955,747
Oregon	3,037,846	2,620,364
Pennsylvania	17,041,444	17,017,891
Rhode Island	1,334,325	1,356,344
South Carolina	6,800,172	6,273,526
South Dakota	1,419,529	1,543,815
Tennessee	9,104,830	9,136,150
Texas	20,902,056	21,079,032
Utah	2,049,070	1,863,640
Vermont	996,616	1,198,585
Virginia	8,443,469	7,700,151
Washington	3,978,738	3,847,828
West Virginia	4,243,965	4,153,045
Wisconsin	6,214,058	5,882,185
Wyoming	900,000	986,241
American Samoa	550,000	550,000
Guam	550,000	584,391
Puerto Rico	8,907,727	7,826,613
Virgin Islands	550,000	578,524

[1] Includes funds for hospital and public health construction, long-term care outpatient facilities, and rehabilitation facilities (as proposed in H.R. 11102 for fiscal year 1971).

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

Mr. YARBOROUGH. I yield to the distinguished Senator from Colorado.

Mr. DOMINICK. I think the Senator is showing excellent political judgment on this. It is something that neither one of us particularly likes, but it is a little better than what we had before, and not as good as we had before the bill came out of committee. It is a good compromise.

Mr. YARBOROUGH. I concur in the description of the Senator from Colorado. It really involves what we call the rural versus urban formula—how much cities are going to get and how much rural districts are going to get. I do not think the Senator from Colorado and I are completely happy with the compromise formula, but it is better than the one on which we lost in committee.

Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. SAXBE. Mr. President, on behalf of the Senator from Illinois (Mr. PERCY) I offer 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 35, between lines 13 and 14, insert the following: (4) by adding after paragraph (2) the following new paragraph: "(3) which offers to patients not requiring hospitalization the services of physicians in various medical specialties, and which provides to its patients a reasonably full-range of diagnostic and treatment services."

Mr. SAXBE. Mr. President, I ask unanimous consent that a statement on the amendment prepared by the Senator from Illinois (Mr. PERCY) be printed in the RECORD.

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

Mr. PERCY. Mr. President, this amendment is a perfecting amendment which adds a third part to the definition of "outpatient facility" now in the bill. It provides that an "outpatient facility" is also a facility which offers to patients not requiring hospitalization: first, the services of physicians in various medical specialties; and second, a reasonably full range of diagnostic and treatment services.

The purpose of my amendment is to make absolutely explicit the provision in the bill authorizing the use of Hill-Burton funds for the construction of neighborhood health centers in both rural and urban areas. The range of services this type of center would have to provide would be specified by HEW in regulations. Such regulations have already been formulated by the Office of Economic Opportunity which funds several demonstration health center projects.

The guidelines developed for the services offered by health centers should be sufficiently flexible to preclude duplication of services which are readily accessible to patients through other health facilities in their community. Thus, while a comprehensive health center under OEO guidelines, for example, should provide psychiatric services, this requirement would be waived if a mental health facility were already located in the area served by the center.

Senator YARBOROUGH, Senator JAVITS and the other members of the Senate Labor and Public Welfare Committee have rightfully recognized the need for freestanding outpatient facilities. Thus, they have included in the bill two provisions facilitating their construction with Federal funds.

The first provision permits a public agency, corporation, or association which does not own and operate a hospital to apply for construction money if they can provide reasonable assurance of hospitalization for their patients. The second provision provides that an outpatient facility can be located apart from a hospital as a free standing structure.

I commend my colleagues for their foresight and fine work. They have made a substantial contribution to the improvement of our health care system.

I am concerned, however, that the definition of an outpatient facility does not clearly indicate the intention of the committee to permit Federal funds to be allocated for comprehensive health center construction.

This definition stipulates that an outpatient facility is a facility located in or apart from a hospital: first, which is operated in connection with a hospital or second, in which patient care is under the professional supervision of persons licensed to practice medicine or surgery in the State.

At first reading, this would seem to indicate that construction money would be available for hospital outpatient departments, some type of clinics, and perhaps group practice. This construction would, therefore, be encouraged. It is not clear from this definition that funds in the outpatient facility category could also be used for the construction of comprehensive health centers. There is no clarifying language to this effect in the report either.

Mr. President, for the past 2 years, I have introduced legislation that would allow Hill-Burton money to be expended for health center construction. Time and again in the course of those 2 years I have seen ample evidence of their need right in my own State of Illinois. In fact, as recently as February a health care crisis in Chicago which forced Cook County Hospital to close its doors to all but the most critically ill might have been averted had there been more operating neighborhood health centers.

I am, therefore, gratified at the committee's provisions for freestanding facilities in this bill and urge that my amendment be accepted to supplement their work.

Mr. YARBOROUGH. Mr. President, in order to be certain that we understand the definition of an outpatient facility and how they will be used, I accept the amendment, but let me say first that the committee concluded that legislation should be designed in such a way as to

promote alternative means for the delivery of health care outside of the expensive acute inpatient setting, especially through the use of outpatient facilities. It was further felt that the outpatient facilities should not only be encouraged as an alternate to inpatient care, but should continue to be used as a method by which health care can be brought to urban and rural poor. The inaccessibility of health care for the disadvantaged has frequently been the result of the inordinately great distance for the patient to travel to the general hospital and as a consequence has maintained the effective health care available at a level slightly above emergency care.

The committee therefore concluded that the encouragement of outpatient facilities, including free standing outpatient care centers, would most appropriately meet this two-pronged problem of promoting, where appropriate, alternate means for the delivery of care, and providing accessible health care to the disadvantaged.

The encouragement of outpatient facilities takes essentially three forms. First, by making eligible for assistance under this category outpatient facilities of hospitals to the extent that they provide care for all ambulatory patients, including ambulatory inpatients. The existing law limited support for facilities under this category only to the extent that they provided care for ambulatory outpatients. Second, this bill will permit nonprofit groups who do not own and operate a nonprofit general hospital to receive assistance under the outpatient facility category for the construction of freestanding outpatient care centers, if adequate assurance exists that the services of a general hospital will be made available to patients using the freestanding outpatient care facility. Equally important, to encourage the construction of these facilities the bill permits that the State agency may increase the Federal share up to 90 percent of the project cost.

The committee intended that Hill-Burton funds be used for the construction of comprehensive, outpatient health centers. It is my understanding that Senator PERCY intends his amendment to make this more explicit. Thus, I have no objection to accepting his amendment.

Mr. DOMINICK. Mr. President, I want to say that, as I understand this change in the definition in the bill, the outpatient facility makes it more inclusive; is that correct?

Mr. SAXBE. That is true, and to make it explicit as to the services are reasonably acceptable.

Mr. DOMINICK. This is, really, an excellent amendment. I am all in favor of it, and I congratulate the Senator from Ohio and the Senator from Illinois (Mr. PERCY) for having prepared it.

The PRESIDING OFFICER (Mr. NELSON). The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. SAXBE. Mr. President, I have another amendment which I send to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read the amendment, as follows:

On page 24, at the beginning of line 19, strike out "$40,000,000" and insert "$70,000,000".

Mr. SAXBE. This amendment also originated with the Senator from Illinois (Mr. PERCY). It would increase the authorization for grants for the construction and modernization of outpatient facilities from $40 million to $70 million every year for the next 5 years.

Mr. President, I ask unanimous consent that a statement on the amendment, prepared by the Senator from Illinois (Mr. PERCY) be printed in the RECORD.

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

This amendment is designed to allocate more funds for the construction and modernization of freestanding neighborhood health centers in both rural and urban areas of our country. Justification for its adoption lies in the great need for such health centers as documented by the Department of Health, Education, and Welfare.

At the end of 1967, HEW estimated that 620 reasonably comprehensive health centers were required to provide medical care for 15.5 million poor. Two hundred and twenty of these centers were needed in rural areas and 400 in our cities. Today, there are approximately 25 million poor, most of whom live in doctor shortage areas. To deliver health care to them, about 1,000 such facilities are needed.

The authorization for outpatient facilities in the bill, while much improved from that accepted by the House, will not do the job. It is especially inadequate since some of the authorized funds will be utilized for the construction of facilities attached to hospitals which will service inpatients as well as outpatients.

The average construction cost of a health center providing most of the services outlined in the OEO guidelines for 25,000 people is approximately $1.5 million. If all of the money authorized for outpatient facilities were expended for these centers—and I do not recommend this—and the 90 percent reimbursement level in the bill were used, 29 health centers could be built each year for $40 million. That makes a total of 145 over the 5-year extension of Hill-Burton. Under my amendment, 51 facilities could be built each year with a total of 255 in 5 years.

If, on the other hand, the more usual Federal contribution of one-third construction costs were contributed, 78 centers could be built each year or 390 in 5 years with $40 million if private funds were available. With $70 million, however, 138 a year can be constructed with a 5-year total of 690. The difference is even greater if Federal appropriations are utilized for modernization or renovation of facilities.

The comprehensive ambulatory centers funded by OEO have proven an effective method of delivering health services to those who need them. Through preventive medicine and family planning services they can reduce hospital usage, freeing hospital beds for acute cases. For example, for the population served by the Columbia Point Neighborhood Health Center in Boston, the number of hospital admissions was by more than 50 percent in the first year of operation.

By utilizing ancillary personnel, these health centers can compensate for our shortage of physicians. Dr. Harold Wise of the Montefiore Hospital Neighorhood Health Center has informed me that he is able to service a population of 45,000 with only 25 doctors. Normally this would require about 60 physicians.

Finally, by being located within a community, these comprehensive facilities provide easily accessible treatment for individuals who might otherwise have to travel for miles to see a doctor.

Mr. President, the members of the Senate Labor and Public Welfare committee have done a fine job revising the Hospital Construction Act. My amendment would supplement what they have done by assuring the development of ambulatory health centers that provide a full range of services to individuals in rural and urban areas with low physician accessibility. I urge, therefore, that the Senate adopt it.

Mr. YARBOROUGH. Mr. President, let me say that the figure in the bill is too low.

I commend the Senator for offering the amendment to raise the amount.

We have an urgent need for 872 new outpatient centers. The average cost of construction for each center would be $1.5 million if each center serves about 25,000 people. Thus, the total need for funds is approximately $1.3 billion.

The committee bill authorizes $40 million per year or $200 million over 5 years. The amendment as offered by the Senator from Ohio (Mr. PERCY) would authorize $70 million per year or $350 million over 5 years.

The $350 million is only 27 percent of the estimated need. I believe that the need is so great that we should and can accept Senator PERCY's amendment.

Mr. DOMINICK. Mr. President, in the amount of money we are talking about, am I correct that they are direct loans, or are the amounts allocated to the State, the request to come from within that State for a portion of that allocation? Maybe the staff of the Senator from Texas could help us on that question.

Mr. YARBOROUGH. It is a grant program.

Mr. DOMINICK. It is a grant program, is that correct?

Mr. YARBOROUGH. It is a grant program. That is correct. The Senator is referring to whether it goes through State authority, first, or direct?

Mr. DOMINICK. Yes.

Mr. YARBOROUGH. It is a grant program but it goes through the State under comprehensive State planning.

Mr. DOMINICK. The amount of money provided for in this fund is allocated to the respective States in advance?

Mr. SAXBE. As I understand it, this is not allocated in advance. I might say, in that regard, that if there is anything we have learned from the medical testimony in the past year, it is that the more money we can properly expend in the outpatient clinics, the more we will protect the hospitals from the patients who can be handled and not put into a hospital to fill expensive beds.

Mr. DOMINICK. I would certainly agree with that. The more we can do in that regard, the better off we will be. I do not object to it. I was merely trying to clarify the situation in my own thinking. I see no objection to it, although I am sure that we will find some when we get to conference with the House.

Mr. YARBOROUGH. In answer to the inquiry of the distinguished Senator from Colorado, after doublechecking, we find that this is a form of grant to the States under the formula.

Mr. DOMINICK. I thank the Senator from Texas. That makes it even more palatable, so far as I am concerned.

The PRESIDING OFFICER (Mr. NELSON). The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. BAKER. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER (Mr. NELSON). The amendment will be stated.

The assistant legislative clerk read as follows:

On page 30, line 5, delete the words "long-term care facility" and insert in lieu thereof the words "extended care facility".

On page 30, line 11, delete the words "long-term care facility" and insert in lieu thereof the words "extended care facility".

Mr. BAKER. Mr. President, paragraph (4) of section 110 of the proposed hospital and medical facilities construction and modernization amendments would establish a priority for projects of general hospitals which give reasonable assurance that services of an extended care facility will be available.

It is my understanding that the intent of this section is to encourage the development of extended care services. The availability of an extended care facility has the advantage of insuring a continuity of health care by transferring patients from an acute care setting to an extended care facility. Additionally, it reduces the cost of care by using a setting less expensive than the acute hospital bed. For these reasons I am in support of the provision requiring that general hospitals be given priority consideration when they make adequate provision for an extended care facility, either as part of the hospital proper, through an agreement with an extended care facility with which they are affiliated, or through an agreement with an extended care facility executed pursuant to title XVIII of the Social Security Act.

I believe, however, that the language of paragraph 4 is confusing in its use of the phrase "long term care" instead of "extended care," which is a part of acute hospital care. Extended care facilities, unlike general long term care facilities, have been specifically identified under the medicare law. The phrase "extended care facility" is a term of art and is the phrase used throughout relevant portions of the committee report. Such facilities are intended to be an extension of the general hospital so that once the acute period of care is completed patients can receive continued medical supervision but to a lesser degree than would be required in the facilities of the general hospital.

I urge the adoption of this amendment to avoid the confusion that will arise if the language is not modified to conform to what I believe is the intention of the committee.

Mr. YARBOROUGH. Mr. President, there is some body of literature on the difference between long term facilities and extended care facilities. Is it the understanding of the Senator that one of those terms includes nursing homes and one does not include nursing homes? This is a matter of priority of grants. Long term facilities includes nursing homes.

Mr. BAKER. That is my understanding.

Mr. YARBOROUGH. Long term facilities would include nursing home care.

Mr. BAKER. Mr. President, the point I make in my amendment is that extended care facilities is a term of art which is used in the committee report. And this is an effort to make sure we fully understand the definitions of the term. It is precisely defined.

I am not sure really what the other term which we use means.

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

Mr. BAKER. I yield.

Mr. DOMINICK. Mr. President, on page 35 of the committee print, starting on line 18, we have there the definition of facility for long term care.

It reads:

SEC. 116. Effective with respect to applications approved under title VI of the Public Health Service Act after June 30, 1970, paragraph (h) of the section of such Act redesignated (by section 201 of this Act) as section 655 (42 U.S.C. 291o) is amended by inserting after "means a facility" the following: "(including an extended care facility)".

It would, therefore, seem to me that the long term care wording used in our measure is more encompassing that the extended care facility which the Senator is proposing.

I do not mean to say I am totally right in this matter. I am merely putting it forth as a suggestion for the purpose of debate.

Mr. BAKER. Mr. President, may I ask the distinguished chairman of the committee and the distinguished Senator from Colorado if it is their view that the phrase "extended care facility" which I have described as a term of art and as used previously in the generic law would be included in the long term care as used in the bill.

Mr. YARBOROUGH. Yes. It is my understanding that is a lesser inclusion, that if we use long term facility, extended care facility would be included.

Mr. DOMINICK. That would also be my understanding.

Mr. BAKER. Mr. President, with that understanding as legislative history, and to make sure that we are not excluding the previous full coverage, I ask unanimous consent that I may withdraw my amendment.

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

The question is on agreeing to the committee substitute, as amended.

The amendment was agreed to.

Mr. NELSON. Mr. President, I rise to express my support for H.R. 11102, the Hospital and Medical Facilities Construction and Modernization Amendments of 1969, as reported by the Senate Labor and Public Welfare Committee.

Since its creation in 1946, the Hill-Burton hospital construction program has provided $3.4 billion to support the erection of hundreds of hospitals in cities and towns in every region of America. The Hill-Burton program has served as an integral part of the Federal Government's commitment to improve the health care available to all citizens.

This legislation now before the Senate builds upon that foundation and offers a coordinated system of grants, loan guarantees, and loans to stimulate the construction and modernization of hospitals, long term care facilities, diagnostic and treatment centers, and rehabilitation facilities.

I want to take this opportunity to clarify the legislative history of the section of the bill which improves the coordination between the Hill-Burton program and comprehensive health planning at the State level.

It appears that the committee report does not sufficiently reflect the final action taken by the committee regarding section 123, which is as follows:

COMPREHENSIVE PLANNING

SEC. 123. Section 604 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(c) On and after the date the Secretary notifies the State agency (designated in accordance with subsection (a)(1)) of any State that he has found and determined that there has been developed for such State pursuant to section 314(a) comprehensive State plans which are effective to carry out the provisions of such section and which are consistent with the purposes set forth in section 600, the State plan of such State shall be deemed not to meet the requirements of subsection (a) unless it is consistent with such comprehensive plans."

While the summary of this provision on page 4 of the report presents a clear interpretation of the committee's intent, it seems to me that references to section 123 on pages 13, 20, and 38–39 of the report do not.

I offer the following modifications to clarify the legislative history of this provision.

On page 13 of the report, in lieu of the last sentence in the paragraph on areawide health planning agencies insert:

Furthermore, the Committee decided that the state Hill-Burton plan of any state must be consistent with the plans developed by the state comprehensive health planning agency once the Secretary of HEW determines that the state comprehensive planning agency has developed an effective plan that is consistent with the purposes of the Hill-Burton program.

On page 20 of the report, in lieu of the analysis of section 123 insert:

This section provides that the state plan of any state must be consistent with such plans as have been developed by the 314(a) agency once the Secretary determines that the 314(a) agency has developed an effective plan that is consistent with the purposes stated in Section 600.

On pages 38–39 of the report, in lieu of section 604(c) insert:

(c) On and after the date the Secretary notifies the State agency (designated in accordance with subsection (a)(1) of any State that he has found and determined that there has been developed for such State pursuant to section 314(a) comprehensive State plans which are effective to carry out the provisions of such section and which are

consistent with the purposes set forth in section 600, the State plan of such State shall be deemed not to meet the requirements of subsection (a) unless it is consistent with such comprehensive plans.

Mr. SCOTT. Mr. President, I support H.R. 11102, the Hospital and Medical Facilities Construction and Modernization Amendments of 1969. This legislation revises, extends, and improves the existing Hill-Burton program which I have supported since its inception.

As reported from the Senate Labor and Public Welfare Committee, this bill deals with four major programs: grants, loan guarantees, Federal loans and grants for construction, and modernization of emergency rooms. The estimated allocation to Pennsylvania for the next 5 years, authorized under H.R. 11102, totals $308,080,000. Of that amount, $132,500,000 is authorized for grants; $130,500,000 is authorized for loan guarantees; and $45,000,000 is authorized for direct Federal loans. Funds used to modernize emergency rooms are not allotted specifically to Pennsylvania, since they are awarded on a project basis rather than as a formula grant.

Title I of the bill authorizes a 5-year grant program to construct and modernize hospitals and public health centers. Beginning with the fiscal year 1971, Pennsylvania's estimated authorized allocation is $23,180,000 and over the 5-year period would be increased, by steps, to $29,400,000 in fiscal year 1975.

Title II establishes a new 6-year program of loan guarantees designed to assist in the construction and modernization of public or privately owned nonprofit health facilities. Pennsylvania will receive an estimated authorization of $26,100,000 during each of the 6 years.

Title III provides for a new 5-year program of direct Federal loans to construct and modernize publicly owned health facilities. Pennsylvania's estimated authorization allocation is $9,000,000 for each of the 5 years.

Title IV creates a new 5-year program to aid in the construction of modernization of transportation systems, communications networks and needed emergency rooms of general hospitals. The funds authorized under this program are to be awarded on a project-by-project basis.

Mr. President, anyone of us who has had the misfortune to spend some time in a hospital recently, knows that the crisis in health care is not imaginary but is very real, indeed. I would even venture to say that anyone who has seen an emergency ward in a big city hospital on a Saturday night got quite an eyeful. Hospitals are crowded and, in many cases, are not equipped with the most modern and up-to-date equipment. The bill now under consideration by the Senate is directed at these inadequacies, and I am hopeful that we can approve it, relatively intact.

The thrust of this legislation is directed at all the various types of hospitals and health care facilities—public, private, profit and nonprofit. There is no discrimination. All are in need and all will receive some form of assistance.

The programs involved here provide for outright Federal grants, loans underwritten by the Federal Government and direct Federal loans. So there is ample opportunity for participation by any groups interested in providing the best possible health care for the residents of their respective communities. The Federal Government has indicated its willingness to become a full partner in the battle for better health care. It is a battle which must not be lost. I urge the Senate to favorably consider and enact this much-needed legislation.

Mr. CRANSTON. Mr. President, I support H.R. 11102, the Hospital and Medical Facilities Construction and Modernization Amendments of 1969. I believe the bill is responsive to the increasingly critical need for modernization and expansion of the Nation's medical and health care facilities. Since 1946, Hill-Burton grants have totalled approximately $3.3 billion. Today, however, the States have nearly 2,000 projects currently waiting for approval—that is, projects clearly demonstrated to be needed and now awaiting financial support—requiring $4 billion, of which the Federal share would be $1.6 billion. Of course, that need will not be met this year or next. But the pending bill will enable us to meet the most critical of these established needs.

The shortage of medical care facilities has been one of several major factors contributing to the unfortunate situation in which we find medical care costs constantly increasing, while quality of care is declining and adequate care is still not available to millions of urban and rural poor. I believe the bill's authorization of appropriations of more than $3.3 billion through fiscal 1975 for construction and modernization of hospitals and other health facilities would do much to move us toward providing physical facilities which are necessary to improve and preserve what is perhaps our most vital national resource—our citizens' health.

Since its inception in 1946, the Hill-Burton program has expanded to become the major vehicle by which Federal support is provided for public and nonprofit private hospital and other health facility construction. During this period the Federal Government has allocated Hill-Burton funds for California projects totalling $162.5 million, with State matching funds totalling $137.5 million.

Of the 383 Hill-Burton projects completed, under construction, or in various stages of planning in California, 177 are for general hospitals, 65 for long term care facilities, 74 for public health centers, 25 for rehabilitation centers, and 42 for diagnostic and treatment—that is, outpatient—centers.

Hill-Burton funds are presently available for direct grants for construction of public or nonprofit private hospitals and public health centers, long term care facilities, including nursing homes, and for outpatient and rehabilitation facilities.

The legislation now before us would further extend and improve the program in several important ways. First, a new 5-year, $2.4 billion program of Federal loan guarantees would be established to attract private capital to assist in the construction and modernization of public or privately owned nonprofit health facilities. In addition for privately owned nonprofit health facilities an interest subsidy would be paid by the Federal Government on guaranteed loans. This subsidy—half of the first 6 percent and one-third thereafter—is designed to assure private nonprofit health facilities of a less expensive source of financing which, it is hoped, will in turn have a restraining impact on the rate of increase in costs to individual patients. According to a recent article in the Atlantic Monthly, hospital costs have nearly doubled in the last decade, reaching a usual range of $72 to $110 per day.

Although publicly owned health facilities receiving guaranteed loans would not be eligible for the interest subsidy under this section, such public hospitals would also be eligible for a program of low-interest direct Federal loans. A total of $750 million over a 5-year period has been authorized to be appropriated for this purpose.

The new program of loan guarantees will be very important to California, as I am sure it will be to many other States. Beginning this year, the State government in California is terminating its involvement in funding health facilities construction and modernization by curtailing its provision of matching funds under the Hill-Burton grant program. Rather it has established a State mortgage insurance program, with State government guarantees but without interest subsidy, for loans obtained on the private market.

However, financing health facility construction by this method raises the cost of care for the consumer, since the high cost of servicing a loan in today's tight money market must be met by increased patient fees. We simply cannot afford to have this continuing upward pressure on patient charges at a time when daily hospital charges already range from $72 to $110.

On the other hand, a Federal grant program, which is financed out of general Federal tax revenues, spreads the cost of providing health facilities more equitably among the population. Similarly, the federally guaranteed loans with an interest subsidy paid by the Federal Government would be a financing method preferable to California's mortgage insurance program in terms of equitable distribution of costs.

In sum, California's withdrawal from participation in the matching grant provisions of the Hill-Burton program is most unfortunate, since this is the most equitable of the financing mechanisms now available. In the absence of State participation in the grant program, however, loan guarantees and Federal interest subsidies become even more important to California.

Second, an amendment adopted in committee which I cosponsored would provide for substantial strengthening of health planning efforts throughout the country by permitting State comprehensive health planning agencies to pass on State Hill-Burton plans after such time as the Secretary of HEW determines that

the State comprehensive health planning agency has developed a plan which is consistent with Hill-Burton purposes and is effective to carry out the provisions of section 314(a) of the Public Health Service Act. This amendment would provide a viable role for State comprehensive health planning agencies in approving health facility construction and modernization.

Third, the bill recognizes that the pattern of health facility use in the United States today entails an over-utilization of high-cost hospital care and takes steps to encourage greater reliance upon and availability of less expensive and, in many ways, more medically appropriate methods of health care delivery. This situation is aptly presented in an excellent article in the current issue of the Atlantic Monthly in the following words:

> But more fundamentally, the present cost structure of the hospital seems to lead to a rather old-fashioned conclusion: no one should go there unless he absolutely has to. If a diagnostic procedure can be done on an ambulatory, outpatient basis, it should be; if a series of tests and X rays can be done outside the hospital, they should be. No one should be admitted unless his care absolutely depends upon being inside the hospital; no one should be admitted unless he requires the hour-to-hour facilities of the house staff, the nursing staff, and the laboratories.
>
> For decades, admission to the hospital was necessary because there was no other facility available. For a large segment of the population, care was either given in the hospital or not at all; and the hospital's clinic system was a poor compromise, with hordes of patients being brought in to wait hours—sometimes literally days—to have relatively brief tests performed.

The ability to make outpatient services available on an increased scale is of enormous importance in light of the growing shortage of medical manpower and health facilities. We must find ways further to encourage the practice of preventive medicine through outpatient care. The growth of "third-party payers"—including the private insurance industry, and Government involvement through medicare and medicaid—has led to a situation in which most people find it easier to obtain and pay for hospital care than to obtain and afford outpatient or extended care services. This, in turn, has led to grossly inefficient use of hospital facilities by many people who could more appropriately and more inexpensively be cared for in either a long term care facility or on an outpatient basis.

H.R. 11102 would encourage provision of outpatient and extended care facilities as a less expensive alternative to inpatient care in a number of ways. Eligibility for Hill-Burton assistance would be extended to hospital outpatient facilities which care for ambulatory inpatients as well as outpatients, and to nonprofit groups to construct a free standing outpatient care facility if adequate assurances exist that the services of a general hospital will be made available to patients of such freestanding outpatient facility. The bill would permit an increase in the Federal share for such projects up to 90 percent of the cost.

The need for expansion of these types of facilities is exemplified by California's unmet need; according to the California State Hill-Burton plan, there is an existing need for an additional 192 outpatient centers and for modernization of 64 of the 175 existing centers.

Also important as an alternative to expensive general hospital care is the availability of adequate long term or extended care facilities. This bill would encourage such lower cost facilities by giving priority for Hill-Burton funds to hospitals which have made provision for an adequate extended care capability either as a part of the hospital proper, or through an agreement with an appropriate extended care facility not necessarily attached or contiguous to the hospital itself. Extended or long term care facilities, properly equipped, staffed and maintained, can offer skilled yet economical care to persons who are ill but who do not require the specialized services of a short term general hospital.

Regarding these provisions to aid in establishing additional outpatient and extended care facilities, I want to point out that other coordinate steps must be taken. Insurance coverage—both private and public—must be expanded to encourage more people to avail themselves of outpatient, extended care and home health care services. In other words, we must not only provide the necessary alternative facilities to high-cost hospital care, but we must also provide the means for people to take advantage of these facilities.

Fourth, the bill authorizes Federal matching grants of up to 50 percent of the cost of construction or modernization of emergency rooms in general hospitals and of transportation and communications systems. This provision is a response to the demonstrated strain which vastly increased usage has placed on these emergency facilities in recent years, particularly in the inner-city.

This provision would cover grants for procurement of helicopters and related equipment. In this regard, I have heard extensive testimony during the recently concluded hearings of the Veterans' Affairs Subcommittee, which I am privileged to chair, on the unprecedented role which helicopters have played in extending modern medical technology directly to the battlefield in Vietnam to save the lives of numerous wounded men who would not have survived earlier conflicts with such wounds.

This use of helicopters to provide lifesaving medical attention within minutes of the time of injury should be made equally applicable, with a concomitant great saving of lives, to civilian situations—such as traffic accidents. Such fast, exceedingly mobile emergency transportation would be particularly useful in remote country areas and in congested inner cities.

However, before expending Federal funds, we should insure that all available Federal and other publicly owned emergency equipment is being utilized to the fullest extent. Thus, I have been exploring the need for legislation to authorize the Department of Defense to encourage military bases to enter into sharing arrangements with civilian hospitals for the use of their extensive helicopter and communications equipment.

I understand that the Department of Defense plans to conduct several pilot programs of sharing such emergency evacuation equipment at Army bases. I intend to follow this development closely and to cooperate with the Department in seeking whatever legislative authority is necessary to continue the program on a permanent and expanded basis.

In addition to the civilian sharing of Federal facilities, according to the report to the President on DOD's Domestic Action Council activities during May–November 1969, a pilot project in Arizona supported by the Department of Transportation was initiated as a test of ways of adapting military aeromedical evacuation to civilian uses. The Arizona project is expected to continue through June 1970.

Finally, the bill would provide important authority within the direct-grant program to encourage the development of special innovative projects to improve the organization, delivery, and cost of health care. Such projects might include sharing of specific services or specialized equipment in order to reduce duplication. Also encouraged would be the construction of critically needed health facilities of all types in urban and rural low-income areas and, as I have already mentioned, the construction of free-standing ambulatory care facilities. Under this section, the Federal matching share for such innovation grants could be as high as 90 percent of the project cost.

Mr. President, the question of financing health facilities construction and modernization is inextricably linked to the need to reshape substantially our health care delivery system. It is impossible to discuss the one without getting into questions raised by the larger issue. Over the next few years we can expect to see some substantial and much-needed changes made in many of our present approaches. As chairman of the Veterans' Affairs Subcommittee, which is responsible for the oversight of the VA hospital and medical care system—the largest such single system in the world—and as a member of the Health Subcommittee, I have been exploring in depth the contribution which the VA health program can make to innovations in our methods of delivering health care, especially the training of paramedical and new types of health personnel. I intend to introduce implementing legislation along these lines very shortly.

In the meantime, we must continue to provide adequately for the construction and modernization of the facilities which are already in almost acute shortage in many areas of the Nation. I believe the bill now before us strikes a reasonable balance between hospital care and less expensive modes of delivering health care. The enactment of H.R. 11102 will help to meet our growing present shortages and will also contribute—especially through the provisions for assistance for outpatient and extended care facilities and for incentives for development of innovative projects—to efforts to find our way out of the maze of the massive health crisis which has beset us.

Mr. President, I again urge Senators

to support H.R. 11102 and wish to recognize the outstanding bipartisan leadership on this health bill and numerous others by the distinguished chairman of the Health Subcommittee (Mr. YARBOROUGH), who is also chairman of the full Committee on Labor and Public Welfare as well as by the ranking minority member of the full committee (Mr. JAVITS) and the ranking minority member of the Health Subcommittee (Mr. DOMINICK).

Mr. President, I ask unanimous consent that the Atlantic Monthly article, to which I referred earlier, be printed in the RECORD. I hope that every Senator will read this disturbing, but informative account of "The High Cost of Cure."

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

THE HIGH COST OF CURE: HOW A HOSPITAL BILL GROWS 17 FEET LONG

(By Michael Crichton)

Until his admission to the hospital, John O'Connor, a fifty-year-old railroad dispatcher from Charlestown, was in perfect health. He had never been sick a day in his life.

On the morning of his admission, he awoke early, complaining of vague abdominal pain. He vomited once, bringing up clear material, and had some diarrhea. He went to see his family doctor, who said that he had no fever and his white-cell count was normal. He told Mr. O'Connor that it was probably gastroenteritis, and advised him to rest and take paregoric to settle his stomach.

In the afternoon, Mr. O'Connor began to feel warm. He then had two shaking chills. His wife suggested he call his doctor once again, but when Mr. O'Connor went to the phone, he collapsed. His wife brought him to the emergency ward of the Massachusetts General Hospital at 5 p.m., where he was noted to have a temperature of 108° F. and a white count of 37,000 (normal count: 5,000 to 10,000).

The patient was wildly delirious; it required ten people to hold him down as he thrashed about. He spoke only nonsense words and groans, and did not respond to his name. While in the emergency ward he had massive diarrhea consisting of several quarts of watery fluid.

The patient was seen by the medical resident, John Minna, who instituted immediate therapy consisting of aspirin, alcohol rubs, fans, and a refrigerating blanket to bring down his fever, which rapidly fell to 100°. He was in shock, with an initial blood pressure of 70/30 and a central venous pressure of zero. Over the next three hours he received three quarts of plasma and two quarts of salt water intravenously, to replace fluids lost from sweating and diarrhea. He was also severely acidotic, so he was given twelve ampuls of intravenous sodium bicarbonate as well as potassium chloride to correct his electrolyte balance.

The patient could not give a history. His wife, upon questioning, denied any history of malaria, distant travel, food exposure, infectious disease, headache, neck stiffness, cough, sputum, sore throat, swollen glands, arthritis, muscle aches, seizures, skin infection, drug ingestion, or past suicide attempts. His past history, according to the wife, was unremarkable. He had never been ill or hospitalized. His mother died at age fifty-five of leukemia; his father, at age fifty-nine, of pneumonia. The patient had no known allergies, and did not smoke or drink.

Physical examination was normal except for a slightly distended abdomen and a questionably enlarged liver, which could be felt below the rib cage. Neurological examination was normal except for the patient's stuporous, unresponsive mental state. The patient was cultured "stem to stern," meaning that samples of blood, urine, stool, sputum, and spinal fluid were sent for bacteriologic analysis. He was also given heavy doses of antibiotics, including a gram of chloramphenicol, a gram of oxacillin, two million units of penicillin; later in the evening, kanamycin and colistin were added to the list.

X rays of the chest and abdomen were normal. Electrocardiogram was normal. Hematocrit was normal. The white count was elevated, with a preponderance of polymorphonuclear leukocytes, the cells which increase in bacterial infections. Examination of the urine showed a few white cells. Platelet count and prothrombin time were normal. Measurements of blood sugar, serum amylase, serum acetone, bilirubin, blood urea nitrogen were normal. Lumbar puncture was normal.

An intravenous pyelogram (an X ray of the kidneys to check their function while they excrete an opaque dye) showed that the left kidney was normal, but the right kidney responded sluggishly. The excretory tubing on the right side seemed dilated. A diagnosis of partial obstruction of the right kidney system was suggested.

Because the abdomen was distended, six abdominal taps were performed in different areas by the surgical residents, Drs. Robert Corry and Jay Kaufman, in an attempt to obtain fluid from the abdominal cavity. None was obtained.

Dr. Minna's diagnosis was septicemia, or generalized infection of the bloodstream from an unknown source. As possibilities he listed the urinary tract, the gastrointestinal tract, the gallbladder, or the lining of the heart. He felt there was no good evidence for a central nervous system cause for the fever, and no good history of drug ingestion or thyroid problems to account for the fever.

This was essentially the conclusion of the neurological consultants who saw the patient later in the evening. They felt that Mr. O'Connor had suffered a primary infectious process with sudden outpouring of bacteria into the blood, and consequent fever and prostration. They felt the infection was somewhere in the urinary or gastrointestinal system, or perhaps even in a small area of the lungs. They felt that meningitis, encephalitis, subarachnoid hemorrhage, or other central nervous problems were unlikely.

A formal surgical consult, also later in the evening, reported that in the absence of muscle spasm or guarding of the abdomen, and in the presence of six negative taps, an acute abdominal crisis was unlikely.

Genito-urinary consultants examined the patient that evening and reviewed his kidney X rays. They felt that there was a probable partial obstruction of the right kidney, but they could not determine whether this was a recent or a slowly developing change. They found no evidence of infection of the prostate gland to explain the fever.

Mr. O'Connor was placed on the danger list and transferred to the intensive-care unit of the Bulfinch Building. At the end of his first twelve hours in the hospital, his fever had been reduced, but there was still no explanation for the fever itself.

Before continuing with Mr. O'Connor's hospital course, it is worth pausing a moment to consider the patient's initial symptoms and initial therapy. Mr. O'Connor presented with high fever and shock. Classically, the fever of unknown origin is a pediatric problem, and classically it is a problem for the same reasons it was a problem with Mr. O'Connor—the patient cannot tell you how he feels or what hurts. However, a high fever in a child is less worrisome than it is in an adult, for children have a much greater tolerance for fever. In adults, prolonged high fever is more likely to result in permanent brain damage and death.

The most common cause of fever for anyone, child or adult, is infection; the most common cause of fever of unknown origin is also infection. There are some unusual causes occasionally seen, such as malignancies, bleeding in the brain, drug ingestion, and outpouring of thyroid hormone, but for the most part, unexplained fevers are produced by unidentified infections.

It is now known that one can harbor an infection in a secluded part of the body, and the body will make very little response to it; however, if the infection spreads into the bloodstream, there may be a "shower" of bacteria, and a subsequent sudden rise in temperature. The shower is usually brief, lasting minutes or hours, and often ends before the temperature rises. This makes diagnosis difficult; if one wants to catch bacteria in the blood, one must draw a sample before the temperature spike, and not during it or after it.

It was thought that Mr. O'Connor was suffering from precisely this sort of situation: a sequestered infection producing episodic bursts of bacteria into the blood, with episodic fever. However, his fever was threateningly high. And thus a classic conflict in therapy arose. It is a conflict as old as Hippocrates. "For extreme diseases, extreme remedies," Hippocrates wrote. He also said: "For grave diseases, the most exact therapy is best." But obviously, an exact therapy depends upon a precise diagnosis, and here lies the conflict.

What is a diagnosis? The question is not as simpleminded as it first appears, for the notion of what constitutes an acceptable diagnosis has radically changed through the years. A diagnosis is drawn up on the basis of two kinds of knowledge: the physician's concept of disease processes, and his available therapies. Ideally, a diagnosis contains some sense of etiology—the cause of the disease—but for most of medical history etiology was either ignored or wrongly ascribed (as in "fever from excess of black bile").

In a modern sense, precise diagnosis is required because precise therapies are available. Yet the need for precise diagnosis is older; in Hippocratic time, this need was based on a prognostic, not a therapeutic, concern. Physicians were unskilled at curing disease, and therefore served mostly to predict the course of an illness which they could not influence. Robert Platt notes that "until quite recently . . . it did not matter whether your diagnosis was right or wrong. . . . Prognosis mattered rather more, especially to the doctor's reputation."

Hippocrates was deeply concerned with the prestige of the physician as related to prognostic acumen; much Hippocratic writing shows this preoccupation with prognosis: "Sleep following upon delirium is a good sign." "Those who swoon frequently without apparent cause are likely to die suddenly." "Labored sleep in any disease is a bad sign." "Spasm supervening upon a wound is dangerous." Hardening of the liver in jaundice is bad." "If a convalescent eats heartily, yet does not take on flesh, it is a bad sign."

These observations are still valid today. But we demand something further from diagnosis, as the range of therapies has increased. If a person swoons, for example, it is important to know whether he has aortic stenosis—and is likely to die suddenly—or whether he is hysterical, or diabetic, or has some other reason for fainting. In short, we want more precise diagnoses because we have more precise therapies.

Throughout medical history, physicians of every age have felt that they had precise, specific remedies, but few of these are still acceptable. As Berton Roueché notes, only three eighteenth-century drugs are still acceptable today: quinine for malaria, colchicine for gout, and foxglove (digitalis) for heart failure. All the other "specifics," as well as what Holmes termed the "peremptory drastics," have disappeared.

Even as recently as 1910, L. J. Henderson commented that "if the average patient visited the average physician, he would have a fifty-fifty chance of benefiting from the encounter." Much has happened since then; in fact, nearly every diagnostic test and therapeutic procedure performed on Mr. O'Connor during those first twelve hours has been developed since 1910. For clinically, diagnosis and therapy go hand in hand; increasing sophistication in either one demands sophistication in the other.

The proliferation of tests and techniques in this century is staggering. Consider the following list of tests performed on Mr. O'Connor, and the dates those tests were first described in clinically practical terms:

X ray: chest and abdomen (1905–1915).
White-cell count (about 1895).
Serum acetone (1928).
Amylase (1948).
Calcium (1931).
Phosphorus (1925).
SGOT (1955).
LDH (1956).
CPK (1961).
Aldolase (1949).
Lipase (1934).
CSF protein (1931).
CSF sugar (1932).
Blood sugar (1932).
Bilirubin (1937).
Serum albumin/globulin (1923–1938).
Electrolytes (1941–1946).
Electrocardiogram (about 1915).
Prothrombin time (1940).
Blood pH (1924–1957).
Blood gases (1957).
Protein-bound iodine (1948).
Alkaline phosphatase (1933).
Watson-Schwartz (1941).
Creatinine (1933).
Uric acid (1933).

If one were to graph these tests, and others commonly used, against the total time course of medical history, one would see a flat line for more than two thousand years, followed by a slight rise beginning about 1850, and then an ever sharper rise to the present time.

That is the meaning of technological innovation. It has struck medicine like a thunderbolt: far more advances have occurred in medicine in the last hundred years than occurred in the previous two thousand. There is no mystery why this should be so. Most research scientists in history are alive today; therefore most of the discoveries in history are being made today. But the consequences of this vast outpouring of information and technology have yet to be grasped. Major questions are raised in such widely diverse subjects as medical education and euthanasia.

What makes the case of Mr. O'Connor so interesting is the way it illustrates the vast web of technological advances which make diagnostic techniques and treatment today so radically different from what they were only thirty years ago.

Presumably, Mr. O'Connor had an infection. The treatment of infectious disease is considered one of the triumphs of modern medicine, crowned by the introduction of antibiotics. But as the bacteriologist René Dubos had pointed out, "The decrease in mortality caused by infection began nearly a century ago and has continued ever since at a fairly constant rate irrespective of the use of any specific therapy." He says, further, "These triumphs of modern chemotherapy have transformed the practice of medicine and are changing the very pattern of disease in the western world, but there is no reason to believe that they spell the conquest of microbial diseases."

In this light, consider Mr. O'Connor's antibiotic "cocktail," given shortly after admission. It was later the subject of some heated discussion when, during the first two or three days, he failed to improve. The use of antibiotics is more sophisticated now than it was twenty years ago, corresponding to a better appraisal of the benefits and limitations of the drugs. Generally speaking, the antibiotic cocktail, a mixture of drugs given before one has diagnosed the nature of the infection, is frowned upon.

The arguments against it are simple enough. For Mr. O'Connor, the mixture of antibiotics might not eliminate the primary site of infection, but it would certainly kill all free bacteria in the blood, thus making identification of the organisms impossible. Without identification, one cannot treat specifically, by matching the organism with the single most effective antibiotic. Further, the inability to identify the organism deprives doctors of an important clue to the location of the infection, since different organisms are more likely to infect different parts of the body.

The arguments in favor of the cocktail are equally simple: that Mr. O'Connor's fever was, in itself, dangerous and constituted a medical emergency. As they saw it, the first duty of the EW residents was to lower that fever by every possible means, even if this hampered further diagnostic efforts. As one resident said, "He could have died while we waited for the cultures to grow out."

It all comes back to Hippocrates: does one treat with a grave remedy, or a specific one? The MGH chose a grave remedy, a strong antibiotic cocktail. The residents did so with the full knowledge that it might impair further work.

Let us now see what happened to Mr. O'Connor.

DAY 1

Mr. O'Connor survived the night. The following morning his blood pressure was normal and his temperature was 99°, but he remained severely agitated and unresponsive. He was sedated with morphine, continued on intravenous fluids and electrolyte supplements. The oxygenation of his blood had been poor from the start, and he was continued on oxygen by face mask.

At eight in the morning the GU consult saw him and felt that he had peritonitis of the right abdomen, or infection of the saclike membrane which surrounds the abdominal contents. Evidence included tenderness and muscle spasm on the right side, and tenderness when his liver was tapped. Bowel sounds were decreased, suggestive of intraabdominal infection. There was tenderness to rectal examination, also suggestive of such infection.

At nine, Dr. Minna examined the patient again and agreed that the tenderness was impressive, particularly after a heavy dose of morphine. An X-ray study of the gallbladder was planned. At eleven, he was seen by the surgeons, who agreed that gallbladder infection was possible, even though bilirubin and amylase tests were normal. They advised waiting on surgery, however.

At noon, the gastrointestinal consult reviewed the barium enema, which was normal. They concluded that "we remain in the dark regarding diagnosis but would agree that bacterial sepsis secondary to a right abdominal lesion is the best bet." They suggested, however, that perforated small bowel, duodenal lesion, pancreatitis, and a number of other possibilities remained, and advised an upper GI series of X rays.

At approximately the same time, the attending physician on the wards, Dr. Kurt Block, noted that Mr. O'Connor presented "a very puzzling problem," with some findings suggestive of right-upper-abdomen pathology, but no clear indication of what it might be.

Later in the day the surgeons again saw Mr. O'Connor, but disagreed with earlier interpretations. They felt his abdomen had no peritoneal signs, and no localizing signs.

At eight in the evening, the neuromedical consult again evaluated Mr. O'Connor, and concluded that his condition still gave no hint of central nervous system disease. They felt that findings pointed to an abdominal problem.

That same evening, more abnormal results of tests came back from the labs. They had been taken the day of admission, and included an elevated uric acid of 17.1 and an elevated alkaline phosphatase of 37.6. The alkaline phosphatase was repeated, and was found to be still higher, at 61.0. Two other enzymes were also slightly high: the serum glutamic oxalocetic transaminase, or SGOT, was 123, and the lactic dehydrogenase, or LDH, was 540. Blood samples were immediately drawn for repeat determinations.

These two enzymes, SGOT and LDH, are measured as indexes of cell destruction. Cells normally contain them; if the cells die, they rupture and release their enzymes to the bloodstream. A rise in enzyme levels is thought to correspond moderately well with the degree of cellular damage, particularly when followed over several days. However, these enzymes are found in many kinds of cells, and thus an enzyme rise does not pinpoint precisely the area of destruction. For example, heart, skeletal muscle, brain, liver, and kidneys all contain SGOT; damage to any of them will produce an SGOT rise. In recent years, there has been a search for enzymes specific to certain tissues. Creatinine phosphokinase, or CPK, is usually considered more specific for heart damage.

DAY 2

At 3:30 a.m., Michael Soper, a medical resident, got back the new set of enzyme values. Everything was further increased: SGOT was now 640, LDH 1250, and CPK very high, at 320. He wrote: "I've never seen a CPK this high and don't know where it is coming from. Doubt it is solely of cardiac origin. Electrocardiogram tonight is unchanged."

At 7 a.m., on morning rounds, Mr. O'Connor's abdomen was again without localizing signs pointing to disease on the right side. All cultures were back from the labs; all were negative. It was decided to continue only penicillin and chloramphenicol, and discontinue all other antibiotics.

Later in the morning the patient was seen by the infectious disease consult, who concluded that the agitation and unresponsiveness were almost certainly secondary to gastrointestinal disorders and metabolic problems. The elevated enzymes could be the consequence of insufficient oxygen and shock, present at admission. However, they noted that the elevated alkaline phosphatase and elevated uric acid were unexplained. They suggested the possibility, previously unconsidered, of staphylococcal food poisoning.

Since no information could be obtained directly from the patient, his wife was closely requestioned about symptoms of thyroid disease, or long-standing diarrhea or other GI problems. The paregoric which the patient had taken on the day of admission was brought into the hospital and checked; it was, indeed, paregoric.

During this period the patient was examined by Dr. Leaf, the chief of medicine, and Dr. Federman, the assistant chief, as well as by a large number of other physicians, in an informal brainstorming session. Every conceivable diagnosis, including mushroom poisoning and cholera, was considered at this time.

The patient's condition remained unchanged.

DAY 3

Continued problems with oxygenating the patient's bloodstream produced a consultation by the respiratory unit, which advised drying the lungs as much as possible, nasotracheal suctioning, encouraging coughing, and close monitoring by arterial blood gases. The patient improved somewhat during the

day, becoming less wild. That evening, for the first time, he responded to his name.

DAY 4

The patient was more alert. He was seen again by the surgeons, who felt his abdomen was still soft, without any indications for surgery. His dose of Valium, to contain his agitation, was reduced.

DAY 5

He was seen in the morning by the neurological consult, who felt that he was "still quite obtunded," confused, and disoriented. Nonetheless, his progress since admission was striking. He could answer questions. When asked where he was, he said, "The hospital," though he could not specify which one. When asked his name, he said, "John." He could state his age. He was taken off Valium entirely. His temperature continued to fluctuate in the range of 99° to 101°. Dr. Minna wrote: "He is better in all ways."

DAY 6

Lab values, back from the day before, continued to climb. CPK had now gone to 2900, the highest in the history of the hospital. There was still no explanation for these enzyme changes. The patient continued to improve in responsiveness, though his mental function was far from satisfactory. In answer to questions, he said that one plus one was "one," and two plus two was "five."

DAY 7

He was able to carry out verbal commands such as "squeeze my hand" and "open your eyes." However, for the most part he lay in bed with his eyes closed; he initiated little spontaneous activity, and never spoke except in reply to questions.

DAY 8

His Foley catheter was removed. He was able to urinate in the normal manner. He was more active mentally, and remembered his last name.

DAY 9

Blood cultures now revealed growth of a gram-negative bacillus, identified as bacteroides, probably of bowel origin. The patient was sufficiently improved that he could be questioned about toxins, drugs, mushrooms, work exposure, and possible ingestions of heavy metals; there was no evidence for any of these. He was seen again by the surgeons, who concluded that his abdomen was soft, with normal bowel sounds.

DAY 10

He was seen by the neurological consults, who observed mild provimal muscle weakness and suggested study of the electrical activity of the muscles, by electromyography. He was also noted to have mushy swelling of his extremities.

DAY 11

The patient's mental condition continued to improve. A repeat kidney X ray was read as normal.

DAY 12

There was continued improvement. Enzymes had dropped to near-normal levels. He had no temperature.

DAY 13

Barium enema was repeated, in the search for diverticulitis or other source of infection. None was seen.

DAY 14

Electromyography was normal. It was decided to discontinue his chloramphenicol antibiotic and see if he remained without fever.

DAY 15

Chloramphenicol was stopped. The patient did well, taking liquids by mouth.

DAY 16

On his second day off antibiotics, his temperature fluctuated in the range of 101° to 100° F.

DAY 17

The patient had an upper gastrointestinal series of X rays, which were normal. On his third day off antibiotics, the temperature began to spike again, to 102°. Tenderness and guarding of the right upper abdomen reappeared.

DAY 18

The surgeons concluded that the patient had cholecystitis, or infection of the gallbladder, which had probably begun initially as cholangitis, infection of the bile system. They also wondered, however, whether he might have a liver abscess. The patient was restarted on antibiotics.

DAY 19

Mr. O'Connor was transferred from the medical service to the surgical service as a preoperative candidate for exploratory abdominal surgery. His mental state continued to clear slowly.

DAY 20

The neurological consult saw him and agreed that his mental status was improving. The surgeons, however, found that his abdominal tenderness had disappeared with the antibiotics. X rays of the gallbladder showed no filling of the bladder sac, but the films were of poor quality. Radioactive scans of the liver and spleen were negative.

DAY 21

Scheduled operation was canceled in order to allow time for further preoperative studies. A repeated gallbladded X ray definitely showed no filling, although this time the films were of good quality. A celiac angiogram was scheduled.

DAY 22 AND DAY 23

The weekend. Specialized procedures such as celiac angiography could not be done, and further work on the patient was postponed until Monday.

DAY 24

Celiac angiography was performed. Under local anesthetic, a thin, flexible catheter was passed up the femoral artery in the leg, to the aorta, and finally to the celiac axis, a network of arteries coming off the aorta to supply blood to all the upper abdominal organs. A dye opaque to X rays was injected, and the vessels studied. No space-occupying lesion (tumor) was found, and the vessels were normal in appearance. The patient made a good recovery from the procedure.

DAY 25

The abdomen was soft and nontender. The patient felt well. He was still on chloramphenicol antibiotic. Enzymes were, by now, fully normal.

DAY 26

The patient had no fever and felt well. The surgical staff decided to stop antibiotics, and see if fever and symptoms recurred.

DAY 27

He was taken off antibiotics. Temperature and white-cell count remained normal. The patient himself was in good spirits.

DAY 28

There was no demonstrable worsening of the patient's condition on his second day off antibiotics. His wife expressed the opinion that his mental state was entirely normal once more.

DAY 29

His condition remained stable on the third day. He said he felt well. He had no fever and no elevation in white count.

DAY 30

His condition was still good; his abdomen was soft without tenderness. He said he felt well. It was now clear that he was not an operative candidate. Plans were made for his discharge the next day.

DAY 31

Discharged. His discharge diagnosis was fever of unknown origin with bacteroides septicemia. The opinion of the house staff remained that this patient had probably had bile-collecting-system infection.

Five days after discharge, he was seen in the surgical clinic by Dr. Monchik, who scheduled another set of gallbladder X rays for the future, and noted that if the patient had further trouble with infection, it would probably be necessary to remove the gallbladder. For the moment, however, the patient was fully well.

"To do nothing," said Hippocrates, "is sometimes a good remedy."

On the surface, Mr. O'Connor's hospital course seems proof of this ancient dictum of "watchful waiting." But this is not really so: had Mr. O'Connor received no treatment, he would almost certainly have died within twenty-four hours. He received vital symptomatic therapy (lowering his fever) as well as acute support of vital functions (assisted respiration). He was closely monitored by teams of physicians who were prepared to intercede in his behalf, supplying more assistance should his body require it.

He also received a vigorous diagnostic work-up, which did not produce as much information as one might like. His therapy was successful, but no physician at the hospital could claim, at discharge, that they really knew what was going on in his case. A diagnosis of cholangitis and cholecystitis was likely, but never demonstrated.

His hospital bill for a month of care was $6172.55. This is just a few dollars less than Mr. O'Connor's annual salary. But he did not have to worry about it; unlike that of most patients with some form of health insurance, Mr. O'Connor's coverage was essentially complete. His personal bill amounted to $357.00.

In this, as in many other things, Mr. O'Connor was a very lucky man.

The single most important problem facing modern hospitals is cost. This cost can be analyzed in a variety of ways, most of them confusing and unhelpful. But the following points are clear:

First, the cost of hospitalization has skyrocketed. The average MGH patient today pays *per hour* what the average patient paid *per day* in 1925. Even as recently as 1940, a privately patient could have his room for $10.25 per day; by 1964, it cost $50.10 per day; by 1969, $72.00 to $110.00 per day. This staggering increase is continuing at the rate of 6 percent to 8 percent per year. Each year for the past three years, the MGH has had to raise its charges. Nor is the teaching hospital unique in its financial squeeze. All American hospitals are raising their charges at this same rate.

Second, hospitalization cost has increased much more rapidly than other goods and services in the economy. Medical care is the fastest-rising item in the consumer price index in recent years, and per-day hospital cost accounts for the largest proportion of this increase. Physicians' fees have also been rising faster than other items in the consumer price index. However, hospital costs have nearly doubled in the past decade, while physicians' fees have increased 30 percent.

Third, the individual contemplating hospitalization no longer worries much, in a direct way, about cost. Third-party payment has led to a public apathy about hospital costs, and this is unwise, if for no other reason than the fact that most people have only one fourth to one third of their costs paid by insurance, a fact they discover late in the game.

Fourth, the often overlapping coverage of health insurance permits some patients to make money from their hospitalization, while welfare reimbursements are always less than the true costs of care. In this situation, the hospital makes ends meet by overcharg-

ing private patients and their insurance companies to cover the welfare deficit—in the case of the MGH, roughly $10 a day overcharge.

Fifth, no single hospital stands alone in its financing problems, but rather is influenced by the activity or decline of other hospitals in the area. The decay of the Boston City Hospital, and its reduction in size to nearly half its earlier patient capacity, have created great pressure on other Boston hospitals to take up the slack, by accepting precisely those patients on whom the hospital loses money, namely, patients covered by welfare. The decline of Boston's municipal, tax-supported hospital is similar to the decline of other such institutions in other American cities. In each case, the reasons behind the decline are political and financial, but the consequences are always the same—to pass on costs to insured patients and make them augment insufficient tax funding for welfare. In the long run, of course, it all works out to the same thing: one can pay the money either in taxes or in higher health insurance premiums. But in such a situation, it is probably more efficient to choose one or the other—and the trend is toward universal health insurance in this country, unmistakably. Dr. John Knowles, director of the MGH, notes that Americans are required by law to arrange insurance for their cars; why should they not also be required to arrange health insurance for themselves?

Sixth, lest private health insurance seem a financial panacea, one should note that private companies are often irrational in their payment procedures. For example, for many years one could not collect for certain treatments, such as the setting of fractures, unless one were admitted to the hospital, at least overnight. Thus a person who might easily receive therapy in the emergency ward and be sent home had to be admitted in order to receive insurance coverage. This unnecessary admission raised the total cost of health care, and ultimately such increases are passed on to the consumer in the form of higher premiums. Some of these peculiar payment procedures have been changed, but not all.

Seventh, the American medical system in its full spectrum, from the private specialist's office to the municipal hospital wards, has never been able to structure the kind of competitive situation which encourages and rewards economies. Nor has American medicine tried. The American physician has been grossly irresponsible in nearly all matters relating to the cost of medical care. One can trace this irresponsibility quite directly to the American Medical Association.

For the past forty years, the American Medical Association has worked to the detriment of the patient in nearly every way imaginable; it is a peculiarity of this organization that it has also worked to the detriment of physicians as well.

Dr. James Howard Means has said: "Its ideology is very like that of the big labor unions . . . it has now set up a continuing political action committee quite like those of the fighting labor unions. Every attempt that has been made by liberally minded groups to improve medical care and make it more accessible . . . the AMA has attacked with every increasing truculence. . . . They forget perhaps that medicine is for the people, not for the doctors. They need some enlightenment on this point."

Their truculence has been expensive. In terms of the modern-day cost of medical care, we may cite the following points. Beginning in 1930, the AMA opposed voluntary health insurance, such as Blue Cross. In 1932, it opposed prepaid group-practice clinics. In 1933, it began a successful campaign to block the construction of new medical schools, and limit enrollment in those already in existence. We now have a shortage of doctors. More recently, the AMA spent millions—probably no one knows exactly how many millions—to fight Medicare, a program which resulted in health benefits to 10 percent of the population and vastly increased income of physicians. (Indeed, a good gauge of the AMA's shortsightedness can be gained by imagining the outcry from private doctors should anyone now try to repeal Medicare.) Further, the AMA has failed to take any strong stand on prescription pharmaceutical prices in this country, which nearly every objective observer regards as grossly inflated. And more insidiously, the AMA has permitted what may politely be called blind spots in health care. The *Journal of the American Medical Association* refused to print a government study of combination-antibiotic drugs which concluded that many of these expensive medications are either worthless or dangerous; the AMA has still failed to condemn cigarette smoking despite overwhelming evidence that this habit though profitable to certain industrial groups, is directly responsible for much disease, suffering, and medical expense in this country.

One can only conclude that the American Medical Association has not considered the interests of patients. On the basis of its record, it is opposed to both better and cheaper medical care. Its only commitment is to the doctor's bank account, and even then, it makes astonishing errors in judgment.

In 1967, in his inaugural address, Milford O. Rouse, the incoming president of the AMA, deplored the growing sentiment in this country that medical care was a right, not a privilege. His opinion was not well received by an angry public, and later presidents have been more circumspect in voicing their views. Nonetheless, it is customary for AMA presidents to travel about, speaking to groups of doctors, applauding what they call "the phenomenal growth of the health industry."

That growth cannot be questioned. Personal consumption expenditures for medical care rose from $7.5 billion in 1948 to more than $27 billion in 1965, and more than $50 billion in 1968. By 1975, it is expected to reach at least $100 billion. This is the sort of news to make a Wall Street broker squeal with delight. But medicine is a service, not an industry, and one really ought to look at it as a service.

In fact, the United States spends more of its gross national product (6.2 percent) on medical care than any other country in the world; it spends a larger absolute sum than any other country in the world. Yet on most objective standards of health—infant mortality, life expectancy, and so on—it is far from the leader.

Other countries are doing better, and most of them have some form of socialized medicine. The United States is extraordinarily backward in this respect. However, many American observers have looked at European socialized systems and have come away shaking their heads; and there is a widespread doubt whether any European system can be adapted to this country. Very likely, America will have to work out its own system. The combination of group insurance with a group-practice system seems a feasible, economical, and practical method, acceptable both to doctors and patients.

Without question, the notion of the doctor as a legitimate fee-for-service entrepreneur, making his fortune from the misfortunes of his patients, is old-fashioned, distasteful, and doomed. It is only a question of time.

Ultimately, however, it is not useful to lay blame, whether on physicians, health insurance administrators, politicians, or an apathetic public. For they all seem to share a common blindness, a total failure to understand why hospital costs are rising.

In 1967, the average cost of a hospital room in America increased 15 percent. The per-day room charge is the largest single item in the hospital bill. In 1969, the cost of a semiprivate room at the MGH was $70. Breaking this down, we find:

Utilities, housekeeping, maintenance, plus business offices ("hotel expense")	$6.96
Food and special diets	5.82
Nursing	18.42
Labs, records, house staff, X ray, and pharmacy	28.80
Overcharge (to cover welfare debts)	10.00
Total	70.00

Now this breakdown contradicts one of the oldest complaints about hospitals, as quoted in a national magazine: "My work puts me in contact with hotels and hotel management and I *know* that a good hotel can give you a beautiful room for $30 a day, with three meals, and make a profit and pay taxes. And yet any hospital, which doesn't pay *any* taxes, operates in the red for $65 a day. I say it must be poor administration."

If the analogy were true, the conclusion would be correct. But the hospital is not a hotel—and in any case, its "hotel" costs are quite reasonable at $6.96 a day; this is approximately half the cost of a decent motel room in Boston. The charge of $5.82 for food, or approximately $1.70 a meal, is equally reasonable, especially when one considers that as a restaurant the hospital must provide an extraordinary range of services, including some eight special diets.

The *true* hospital costs—the expenses incurred in a hospital but not in a hotel—are, on the other hand, very high. They account for 90 percent of the total per-day room charge. And the question, really, is whether these charges are reducible. No sensible businessman would bother to try to get his hotel costs below seven dollars a day; if there is to be a decrease in costs, it must come from the non-hotel charges.

These in turn largely reflect the increased technological capacity of the hospital. Mr. O'Connor's example is a case in point: most of the tests performed on him were not available in 1925, when he could have had his room for one twenty-fifth of what it cost him today. The maintenance of this new technological capability costs money; and to a large extent, in medicine as in education, law enforcement, sanitation, and a variety of other services, you get what you pay for. If you are going to enter a high-quality acute-care facility which has six employees (most of them nonphysicians) for every patient, and if you are going to pay these employees a decent wage, then your care will be expensive. (This is sometimes easier to see if it is taken out of the hospital setting. If a man had to hire six secretaries for an eight-hour day, at $2.50 an hour, it would cost him $144 a day. If a man had to hire two gardeners at $4 an hour, for a single eight-hour day, it would still cost him $64 a day.) If you are going to purchase technological hardware, maintain it, and keep it up to date, this costs money. If you are going to keep the hospital in continuous operation 24 hours a day, 365 days a year, this costs money.

All this becomes clear in the instance of a simple procedure such as a chest X ray. A private radiologist in his office will perform this for you at one half or one third of what the hospital charges. His charge largely reflects the fact that his unit can operate on an eight-hour day and a forty-hour week; other costs, such as equipment and supplies, are the same. In medicine today, as in every other industry people are more expensive than anything else. Sixty-three percent of the hospital budget now goes to the salaries and benefits of employees. And much of the rise in hospital costs is directly attributable to the demand of these employees that they not be forced personally to subsidize the health business by accepting wages incommensurate with similar jobs in other indus-

tries. Their demands are justified; most of them are still underpaid. Their salaries will increase in the future.

One cannot, however, fairly claim that hospitals are superbly efficient. Especially in a teaching hospital, attention to the medical, nonhotel costs is less central than one would like to see. One can argue endlessly about whether too many tests are ordered. But certainly, when physicians who order these tests don't know what patients are charged for them, eyebrows must go up. Doctors tend to operate on a "spare-no-expense" philosophy, which will, eventually, need to be tempered.

But more fundamentally, the present cost structure of the hospital seems to lead to a rather old-fashioned conclusion: no one should go there unless he absolutely has to. If a diagnostic procedure can be done on an ambulatory, outpatient basis, it should be; if a series of tests and X rays can be done outside the hospital, they should be. No one should be admitted unless his care absolutely depends upon being inside the hospital; no one should be admitted unless he requires the hour-to-hour facilities of the house staff, the nursing staff, and the laboratories.

For decades, admission to the hospital was necessary because there was no other facility available. For a large segment of the population, care was either given in the hospital or not at all; and the hospital's clinic system was a poor compromise, with hordes of patients being brought in to wait hours—sometimes literally days—to have relatively brief tests performed.

There is hope that satellite clinics will help solve the problem; one study of a satellite clinic in Boston reported that there were fewer hospital admissions as a result of the clinic's work. In any case, alternative facilities must be found, because it is unlikely that hospital costs will ever go down. The best anyone can hope to do is stabilize them somewhere in the neighborhood of $100 a day. This makes the hospital an expensive place; but it has its uses, and indeed will be an economically tolerable place, if it is used appropriately.

Mr. MURPHY. Mr. President. As a member of the Health Subcommittee, I urge the enactment of H.R. 11102, the Hospital and Medical Facilities Construction and Modernization Amendments of 1969. This measure would extend for 5 years the Hill-Burton program of grants for hospital construction and modernization, establish a new program of Federal loan guarantees and direct loans for health facilites, and provide for a new program of project grants for the construction or modernization of emergency rooms of general hospitals, communication networks, and transportation systems.

The bill before the Senate today builds on the successful Hill-Burton program. Since its enactment in 1946 up through June 30, 1969, $3.41 billion have been expended. These Federal funds have been more than doubled by State and local matching dollars equaling $7.8 billion. The total national effort of $11.9 billion has resulted in the construction or expansion of 10,171 projects. These projects have provided 442,000 inpatient care beds in hospitals and nursing homes and have provided 2,888 outpatient facilities, such as public health centers, diagnostic and treatment centers, and rehabilitation facilities.

For my State of California, the Hill-Burton program through June 30, 1969 has helped to construct or modernize 409 projects resulting in 20,895 inpatient beds, 139 outpatient facilities. Federal funds of $157.8 million were more than quadrupled by $648.4 million in local and State funds in California.

While great progress has been made, much remains to be done. The estimated need reveals the magnitude of the task ahead and the importance of extending the Hill-Burton program, if we are to meet the urgent health needs of our people.

We are told that there is a need today for 85,007 acute-care hospital beds, 893 public health centers, 872 diagnostic and treatment centers, and 164,430 additional long term beds. The estimated cost of meeting these needs is $5.3 billion. National needs for modernization are particularly great, with estimates indicating that there are 455,130 hospital beds needing such modernization at a price tag of $10.5 billion. Thus, the need for modernization is almost double that of new construction.

Mr. President, I am particularly pleased that the amendment offered by the Senator from New York (Mr. JAVITS), which I cosponsored, changing the present allocation grant funds for new construction of health facilities, was adopted by the Labor and Public Welfare Committee. The present grant program, with the exception of the funds for modernization, allocates funds to the States based on population and per capita income squared. It is my understanding that the rationale for the formula when the program was enacted in 1946 was that: First, there existed no actual measurement of health facility need and second, it was generally felt that rural America had the greatest need for hospitals. Therefore, the Hill-Burton Act squared the per capita income factor in the formula. This had the effect of directing funds to the poor rural States where the need at that time was the greatest.

It has been more than two decades since we enacted the original formula and I believe it is presently clear from the health need measurements, which are available now, that the country's health needs have also changed. It is my judgment that the formula should reflect these changes and these new needs. Thus, the Javits-Murphy amendment, as reported to the Senate, rightly eliminates the squaring of per capita income.

It can be demonstrated that there is a need for a formula change by examining what has happened since the Hill-Burton program was enacted in the eight States with the highest per capita income as contrasted with the States with the lowest. During the past two decades, for example, the eight States with the lowest per capita income have made great strides. In 1948, the eight lowest per capita income States averaged 2.61 beds per 1,000 population. By 1966 these States made dramatic gains averaging 3.93 beds per 1,000 population. During the same period, the eight highest per capita income States, averages showed no improvement. Thus, in 1948, these eight highest per capita incomes States averaged 3.92 per 1,000 citizens and in 1966 the figure remained the same.

For my State of California, the need for the formula change is even more dramatic. In 1948 California had 3.92 beds per 1,000 in population. By 1966, California had fallen behind the average of the eight lowest per capita income States recording only 3.5 hospital beds per 1,000 population. Interestingly enough, this figure only matched the national average of beds per 1,000 population of all the States in the early years of the Hill-Burton program.

The administration recommended and supported the formula change, as Under Secretary Veneman testified before the Health Subcommittee:

> This change will direct today's funds toward today's needs just as the original formula did for the needs of 20 years ago.

I am disappointed with the floor formula change, but I understand the realities. Unfortunately, the Senate took a very parochial view. Once again it seems to me that individual gains and losses rather than the merits prevailed.

I also offered an amendment on behalf of Senators JAVITS and HUGHES and myself to add alcoholism as one of the priority areas for States to consider under the Hill-Burton program. I have been interested in alcoholism for some time. Alcoholism is the fourth major health problem in our Nation. It afflicts 5 to 6 million Americans. In my State of California, there is estimated to be 1 million alcoholics. On September 26, 1969, I testified before the Special Subcommittee on Alcoholism and Narcotics describing the magnitude of the problem. I ask unanimous consent that the full text of the statement be printed following my remarks.

In 1967, I coauthored with Senator JAVITS, S. 1508, the Alcoholism Care and Control Act of 1967, authorizing a comprehensive program for the care and control of alcoholism. We were successful in having parts of this comprehensive alcoholism bill incorporated in the regional medical bill, now Public Law 90–574, in 1968. Last year, I coauthored two more measures on the subject of alcoholism—S. 1997, the Alcoholism Care and Control Act of 1969, and the administration's bill, S. 3121, which would include alcoholism under the community mental health program. I was pleased that a new grant program for alcoholism was included as part of the Community Mental Health Centers Amendments of 1969, S. 2523. The House-Senate conferees recently reached final agreement on this measure.

I am also pleased that the bill before us authorizes a new program of project grants for construction and modernization of emergency rooms of general hospitals, communication networks, and transportation systems. There has been growing use of emergency rooms across the country, and in many parts, the emergency room has become the primary contact of our citizens. Figures in-

dicate that use of emergency rooms has doubled and tripled in recent years. Also this section authorizes assistance for adequate communication and transportation systems. The speed and the quality of the response can be the difference between life and death.

I also support title V of the bill, which provides for a 1 percent set-aside in health programs for health evaluation purposes. I have been a strong advocate of closer monitoring and evaluation of all Federal programs, and I believe this is a desirable feature.

Mr. President, our Nation faces health care problems of great complexity and magnitude. President Nixon, Secretary Finch, and Dr. Egeberg have all expressed grave concern with what many feel has already reached crisis proportions. In fact, Secretary Finch and Dr. Egeberg, in assessing the Nation's health care challenge, opened a recent report to the President with these words:

This nation is faced with a breakdown in the delivery of health care unless immediate and concerted action is taken by government and the private sector.

I believe that the bill before the Senate today holds great promise in attacking many of our urgent problems. Today's tight money market has caused capital financing problems for hospitals as they attempt to bring their facilities up to date. The bill before us extending the grant program and providing for additional sources of revenue through direct loans, interest subsidies, and guaranteed loans should help in this respect. We also have the problem of utilization of costly inpatient facilities because frequently less expensive facilities providing long-term care, outpatient service, and rehabilitation are not available. The bill's provisions giving special priority to general hospitals where extended care facilities are available to patients either as part of the hospital or through a nearby facility, and the bill's provisions increasing grants for these specialized facilities hopefully will reduce the pressures on acute-care hospitals and at the same time bring about great economy and efficiency in the delivery of health care.

Also we have had the problem of unnecessary duplication of facilities. To help prevent this, the bill provides that the Federal share may be increased at the option of State agencies by 20 percent for those projects which would assist in reducing the cost of delivering care or otherwise improving the capabilities of delivering health facilities. An example would be a hospital providing on a shared basis with another hospital. Another major problem to which the bill addresses itself is the lack of health facilities in urban and rural poverty areas where the local resources are simply not available. The bill would permit the Federal share of projects' cost to be up to 90 percent for projects having a potential of reducing health care cost or projects serving poverty areas.

I was also pleased to cosponsor the Dominick amendment adopted today requiring a report in 90 days and annually thereafter on the health consequences of marihuana. Because of the dearth of knowledge on the subject I believe this most important. This study is similar to the one required for cigarettes.

Mr. President, I have merely touched on some of the highlights of the bill. I do believe that the bill is an effort to face up to some of the issues confronting the Nation in the health area and seeks to find new approaches for resolving some of our health care problems. Over the years, Hill-Burton has been recognized for its many achievements in hospital planning and construction. By renewing and expanding the program, there is every reason to believe that the program will reach even greater heights in the years ahead.

Mr. President, I ask unanimous consent that statistics showing California's need for Hill-Burton be printed in the RECORD.

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

Mr. Chairman and my distinguished Colleagues, I would like to take this opportunity to welcome the Subcommittee to the great State of California and to tell you how much I appreciate the attention this Subcommittee has given to two of the most pressing and important problems which face the future of our nation today.

At yesterday's hearings, the focus quite properly was placed on the dangerous destruction resulting from the presently widespread—and still spreading, may I say—use of drugs and narcotics.

Today your agenda will focus attention on witnesses whom I am certain, will reiterate what most of us already know and understand: the evil, moral and physical erosion and general destruction caused by alcoholism.

Alcoholism is a major health problem, both in our state of California and the entire nation. It is so serious that it is now the nation's fourth leading health problem. Only heart disease, mental illness and cancer rank ahead of alcoholism.

Alcoholism is clearly a most tragic disease, and I am sure that many of us have seen at first hand the destruction and destitution it can cause. It is estimated that there are five to six million Americans afflicted with this disease and that a minimum of 250,000 are added to the ranks each year.

In California one million individuals are estimated to have an alcohol problem. The state already leads the country in this disease and alarmingly their numbers are increasing at a rate more rapidly than the state's population. By 1971 it is estimated that the number will increase to one million, three hundred thousand.

The cost of alcoholism in terms of dollars is astronomical and a luxury we can no longer afford, but the cost in terms of human suffering is even greater, and gives all the more urgency to the determination of this Subcommittee to find answers where we have only encountered problems in the past.

We have no way of knowing the number of lives lost, dreams shattered, talents destroyed, families broken, marriages ended, and successful careers crushed because of alcoholism. There is no way we can completely compute the total of destruction brought about each year by this dread disease.

We do have estimates of what alcoholism costs in America. American indusrty, for example, which until the late forties refused to recognize the "problem with alcohol" now realizes the tremendous dollars lost each year as a result of alcohol-associated absenteeism and reduced worker efficiency. At long last—they began to realize the real problem that must be faced and somehow resolved. For instance, it is estimated that the cost to industry is well over two billion dollars yearly and two hundred American companies have now instituted programs aimed at coping with the problem. A more updated figure in California places the cost to California industry within the state at $750 million.

Lately we have heard a great deal about crime in the streets and rampant lawbreakers. Mr. Chairman, I point out that there is a tremendous amount of evidence connecting excessive drinking and the resulting drunkenness with the crime rate. The National Crime Commission reported that in 1965 one out of the three arrests, or a total of two million persons, were arrested for misdemeanors on drunkenness. Certainly the cost to the American taxpayers for the arrest, trials, and for the detention periods in jail must run into millions of dollars more each year.

With the already too great burden on our courts and law enforcement officers, we must find some way to relieve this burden and, indeed, we would if we could discover the means to prevent alcoholism, or even reduce it, or begin to provide alternate methods of dealing with men afflicted and affected by this disease.

Accidents on our highways cost the country nine billion dollars annually.

Prior to this year, I was a member of the Senate Public Works Committee which helped to write some of the legislation dealing with highway safety problems. Appalled as everyone is with the astronomical costs in connection with these problems—I supported this safety legislation which was primarily addressed to improving the safety of roads and vehicles. At the same time I was, and remain, concerned about what we sometimes refer to as "the nut behind the wheel," for when a driver has been drinking he threatens the safety not only of himself and those riding with him but also the sober and unsuspecting motorist on the road.

The Public Health Service has estimated that alcohol contributed to—or is associated with—the cause of fifty per cent of fatal motor vehicle accidents.

In California alone, I understand that forty-six thousand people were injured and fifteen hundred killed as the result of driving under the influence of alcohol.

Such unnecessary carnage on our highways must be stopped. I personally urged the State Legislatures to get tough in this area—for it is clear that when a driver is drinking he is both dangerous to himself and to his fellow citizens.

In California, alcoholism is the tenth leading cause of death. For individuals in the most productive ages of 20 through 40, one-third of all death results from alcohol.

And this is another point, Mr. Chairman, that I would like to emphasize because I do not believe it is generally known or understood by the American public, and that is that the life expectancy of an alcoholic is usually ten to twelve years below the general average.

As a member of the Senate Subcommittee on Health, I have a deep interest in alcoholism and its ill effects—a subject which I think has been neglected too long in this country. And I was pleased to have co-sponsored with Senator Javits and others, S. 1508, a bill aimed at initiating programs for the care and control of alcoholism. Naturally, as a conferee on the regional medical program to which this alcoholism program was added, I was pleased that several parts of S. 1508 were included in the final measure. The nation thus started to do what we must do—

deal with the growing, unbearable, and costly problem. Building on this beginning, I again this year joined Senator Javits in introducing S. 1997—the Alcoholism Care and Control Act of 1969. This bill I hope will do much to advance the nation's methods of treatment and cure of alcoholism.

It would establish a division of alcoholism and alcohol problems within the National Institutes of Mental Health. It would provide incentive grants for the construction, staffing and operation of treatment and preventive programs. And it would provide grants for public education which are so badly needed. It would authorize purpose grants for training and material development. It would provide scholarship grants to meet critical manpower shortages in the area—specialists who have a complete understanding of the problems and first-rate training in how to cope with them. It would establish regional centers for research in alcoholism.

Thus, I urge this Subcommittee to take early and favorable action on S. 1907. As we all know the stakes are very high in this nation's battle against alcoholism. The total cost to my State of California each year is a staggering one billion dollars, and I think there are better ways in which we could spend this money.

For Los Angeles County—where we are today holding these hearings, a 1964 study showed alcoholism costing $27 million. It is now believed that the cost to the county would approach $50 million.

So, Mr. Chairman, Los Angeles County, the State of California and the nation appreciates the efforts that you and the other members of this Subcommittee are putting forth in attempting to focus the national spotlight on these two pressing subjects—drug addiction and the horrible disease of alcoholism. And I must hope that as a result of your efforts and the efforts of this Committee we may soon be able to show positive advance and the prevention and treatment in both.

CALIFORNIA: TOTAL HILL-BURTON PROJECTS APPROVED BY TYPE OF FACILITY, JULY 1, 1947–NOV. 30, 1969

Type of facility	Number of projects	Beds provided	Total cost (thousands)	Federal share (thousands)
Total	413	21,215	$666,119	$162,036
General hospitals	205	17,519	486,334	116,051
Long-term care facilities [1]	60	3,292	61,600	14,412
Mental hospitals	10	331	7,388	2,340
Tuberculosis hospitals	1	73	1,025	298
Diagnostic or treatment centers (outpatient)	37	.....	39,375	10,255
Rehabilitation facilities	25	.....	35,168	9,356
Public health centers	75	.....	35,229	9,324

[1] Includes skilled nursing homes, long-term care units of hospitals, and chronic disease hospitals.

Source: Health Services and Mental Health Administration Health Facilities Planning and Construction Service, Office of Program Planning and Analysis.

CALIFORNIA: HILL-BURTON PROJECTS APPROVED FOR GENERAL HOSPITALS AND LONG-TERM CARE FACILITIES, FISCAL YEARS 1965-69

Fiscal year	Number of— Projects	Beds provided	Total cost	Federal share
General hospitals:				
1965	9	954	$27,464,259	$7,247,657
1966	8	740	24,829,652	6,339,676
1967	9	896	28,388,145	6,960,088
1968	6	1,002	41,966,750	7,877,364
1969	14	1,563	58,778,829	14,262,877
Total	46	5,155	181,427,635	42,687,662
Long-term care facilities: [1]				
1965	2	482	$12,565,287	$3,067,531
1966	2	130	3,426,439	1,025,845
1967	4	110	3,304,077	559,052
1968	1	42	1,167,474	259,485
1969	7	302	5,109,980	1,334,537
Total	16	1,066	25,573,257	6,246,450

[1] Includes skilled nursing homes, long-term care units of hospitals, and chronic disease hospitals.

CALIFORNIA: EXISTING AND NEEDED INPATIENT AND OUTPATIENT FACILITIES,[1] AS REPORTED IN HILL-BURTON STATE PLAN FOR 1969 FISCAL YEAR

Category	Number existing Total	Conforming [2]	Nonconforming [2]	Total needed [3]	To be added	To be modernized
Facilities:						
General hospitals	534	.....		362	3	61
Long-term care facilities [4]	1,271	.....		934	35	56
Tuberculosis facilities	32	.....		29	.....	15
Public health centers:						
Primary	96	.....		96	.....	26
Auxiliary	119	.....		119	.....	61
Diagnostic or treatment centers (outpatient)	178	.....		366	189	62
Rehabilitation facilities, comprehensive	16	.....		19	3	1
Beds:						
General hospitals	67,902	56,614	11,288	67,757	3,670	8,778
Long-term care facilities [4]	89,356	77,886	11,470	82,233	2,843	6,237
Tuberculosis facilities	2,613	1,453	1,160	2,078	.....	878

[1] Excludes Federal facilities.
[2] Represents classification by the State agency as conforming or nonconforming to minimum standards relating to construction and patient safety.
[3] Represents the total number of facilities and beds needed over the next 5 years. Bed need based on 3 factors: utilization experience; population, projected 5 years; and an optimum occupancy rate.
[4] Includes skilled nursing homes, chronic disease hospitals, and long-term care units of hospitals.

Note: While many of the "service areas" delineated by the State agency for planning health facilities need additional beds, some areas currently have "excess" beds. Thus, State totals of existing beds and facilities plus those to be added may exceed the total estimated need.

Source: Health Services and Mental Health Administration, Health Facilities Planning and Construction Service, Office of Program Planning and Analysis.

CALIFORNIA: GENERAL HOSPITALS AND LONG-TERM CARE FACILITIES, 1966 AND 1969 [1]

Type of facility	1966	1969	Percentage change
General Hospitals:			
Total existing beds	62,290	67,902	+9.0
Conforming beds	48,350	56,614	+17.1
Beds to be added	1,071	3,670	+242.7
Beds to be modernized	9,959	8,778	−11.9
Long-term care facilities [2]:			
Total existing beds	69,246	89,356	+29.0
Conforming beds	54,747	77,886	+42.3
Beds to be added	878	2,843	+223.8
Beds to be modernized	5,539	6,237	+12.6
Population used	17,749,000	18,793,000	+5.9

[1] As reported in Hill-Burton State plan for 1966 and 1969 fiscal years. 1966 plan reflects 1964 amendments and the revised procedures for evaluating facilities and determining beds needed and beds requiring modernization.
[2] Includes skilled nursing homes, long-term care units of hospitals, and chronic disease hospitals.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The committee amendment, as amended, 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 the bill pass?

Mr. YARBOROUGH. Mr. President, I suggest the absence of a quorum. It is our intention to ask for the yeas and nays on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. 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. KENNEDY. Mr. President, today the Senate is debating what I believe will be the single most important piece of Federal health legislation that will come before the 91st Congress—the Hill-Burton Amendments of 1970.

Twenty-four years ago this summer, as the Nation was winding down its Military Establishment at the end of World War II, President Truman signed into law the Hill-Burton Act to promote hospital construction in the United States. The act had been conceived during the early years of the war by the Senate Subcommittee on War Time Health and Education. After its enactment, it became one of the most popular and successful pieces of matching Federal grant legislation in the Nation's history. In large part, the success of the act in its early years was attributable to the imagination and foresight of the original subcommittee in assessing the major health needs of America a generation ago. Since 1946, the Hill-Burton Act has been periodically extended, but without the sort of major reorientation that has become increasingly necessary in recent years. Today, the Senate is challenged to demonstrate the same foresight and perception for present day America that our predecessors demonstrated in 1946.

Perhaps the most obvious unmet need has been the urgent crisis of our municipal hospitals. Today, as the hearings before the Senate subcommittee made clear last June, one of the most desperate aspects of our current health crisis is the deplorable condition of the big city hospitals in the Nation's major met-

ropolitan areas. In part, the serious needs of these hospitals are bypassed by the Hill-Burton Act, because funds made available for hospital construction under the act have been allocated in accord with a formula that fails to distribute the money to areas of greatest need.

At the time the Hill-Burton Act was signed into law, there were no precise measures of the need for hospital construction in the Nation. The best available measure was the need for health facilities—greatest in areas of low per capita income. As a result, the original legislation—unchanged since the beginning—allocated hospital construction funds to the States on the basis of a formula whose sole factors were: First, population, and second, per capita income squared. The second aspect of the formula is the so-called squaring factor, the factor that has been the subject of increasingly intense controversy in recent years.

To be sure, the original Hill-Burton formula, with its squaring factor, generated a significant development of new health facilities in areas where they were obviously needed in the early years of the act. Today, however, we know that per capita income is no longer the best or most reliable measure of the need for health facilities. Yet, more than a decade after far more accurate measures of need had been developed, we in Congress have continued to permit construction funds to be distributed in accord with an obsolete formula that fails to recognize the contemporary need.

The consequences have been alarming. Too often, scarce Federal funds for hospital construction have been poured into areas with little need. Too often today, we see vast new community hospitals full of empty new beds in rural and suburban areas, while city hospitals, built at the turn of the century or even earlier, struggle to provide health care in deplorable conditions to those of our citizens who can least afford it.

Any one of us who visited a municipal general hospital in recent years knows the intense problems they face in seeking to spread the benefits of our medical revolution to all our people. In my own State, Boston City Hospital is an eloquent and depressing tribute to the short sightedness of Federal, State, and local governments in providing health care to their people.

Last January, Boston City Hospital lost its accreditation, and the hospital was plunged even deeper into its crisis of health care. Although the accreditation is likely to be regained this spring, the problems of the hospital obviously cannot be resolved that quickly. The most immediate need is for new sources of funds, and new methods of financing health care. This is the approach the Senate Subcommittee on Health has sought to develop in its amendments to the Hill-Burton Act, which the Senate is debating today. One of the principal reasons that this legislation has now come to the Senate floor, with so many useful innovations in Federal financial assistance for health facilities, is that problems like those of Boston City Hospital are common to every State.

Indeed, in many respects, the obsolete Hill-Burton formula stands as the symbol of our failure to meet the needs that have arisen in almost all parts of the Nation. It is no secret that a principal reason for the administration's proposal to abandon Hill-Burton formula grants was the conviction that the existing formula was unfair and that it failed to recognize the obvious health needs of the Nation.

The "ideal" formula for allocating Hill-Burton construction funds would be, in my opinion, a formula based on three factors: First, population; second, per capita income; and third, need for health facilities. Under such a formula each of the factors would be weighted equally. Unfortunately, the Senate committee established a compromise formula, under which funds would be allocated under the old formula for fiscal year 1970, and under the "ideal" formula for funds appropriated in subsequent fiscal years in excess of the amount appropriated for 1970. In effect, the committee proposed a "grandfather clause" to insure that no State's Hill-Burton construction funds would be reduced beneath their present level.

More recently, Senator JACOB JAVITS and I have attempted to devise a more satisfactory compromise, one that takes greater account of existing need, even for present appropriations. The formula we are proposing is based on the three factors of the "ideal formula," with two modifications:

First, we retain the squaring of per capita income; second, we weigh the three factors in the following manner: 40: 40: 20; based on population, per capita income squared, and need for health facilities.

With due consideration for the circumstances and the political realities of the problem, I believe that this formula represents a major step forward toward our goal of providing a fair distribution of health funds in areas where they are needed most.

In addition to what I feel is a satisfactory resolution of the formula issue, there are also a number of other highly significant provisions worth noting in the committee bill.

The committee has proposed major new programs of loan guarantees to public and nonprofit private health facilities. In the case of public facilities, a program of direct loans at low interest rates is also established. In the case of private health facilities, the loan guarantees are also accompanied by a substantial Federal interest subsidy. These provisions represent a major response by the committee to the need for greater Federal assistance for health facilities at a time increasing Federal budget stringency. We know that the funds available for direct Federal grants simply will not do the job. Therefore, the committee has sought new methods of financing that do not rely on the direct grant route.

It may well be that better and more appropriate methods of financing can be devised. The amendment of the Senator from Colorado (Mr. DOMINICK) will be an imaginative mechanism to enable HEW to sell federally backed obligations to finance public hospital construction and the construction of other public health facilities. The great virtue of this approach is that it enables new Federal financial assistance to be made available to local governments without taking the rather serious step of providing Federal guarantees for tax exempt bonds.

Last year, one of the major issues in the tax reform bill was the need to develop new methods of Federal financial assistance to State and local governments. I and a number of other Senators supported the proposal of the House Ways and Means Committee to provide a Federal interest subsidy to State and local governments willing to forgo the privilege of issuing tax exempt bonds. Unfortunately, the merits of this proposal were lost in the storm of criticism that met other provisions in the House bill, which would have imposed a direct Federal tax on previously tax exempt State and local obligations. I therefore welcome the new approach to financing health facilities that Senator DOMINICK is proposing. As I have already indicated, my only reservation is that we in Congress are now tending to create a problem caused by the proliferation of Federal agency bonds to support desirable public services. We have given too little attention to the implications of these new methods of financing on the overall Federal budget and on other Federal programs. I am hopeful, therefore, that Congress will see fit to conduct a general study of this problem, so that we may have the advantage of a coordinated approach to these problems wherever they exist.

In another major series of provisions, the bill provides new incentives for the development of a wide range of innovative health facilities and programs. It establishes a special program of project grants for the construction and modernization of emergency rooms in general hospitals, including the development of modern transportation systems and communication systems for use in connection with the emergency facilities.

In addition, the bill creates a series of new provisions to encourage the development of outpatient facilities. These facilities have enormous potential for bringing better preventive care to our citizens, and thereby easing the heavy burden we currently place on our acute care facilities. A highly significant project of this type has already been launched by Boston City Hospital. The bill also provides new incentives for projects which seek to reduce the cost of health care through the use of shared facilities and free-standing outpatient care facilities, including neighborhood health centers.

Finally, the bill provides substantially increased Federal funding for health projects in urban and rural poverty areas. One of the greatest tragedies of our vaunted health system in America is the inadequate health care we provide for our citizens who live in poverty. We know that the sickness of the poor is the shame of America, but for too long

we have closed our eyes to this critical problem. In cities like Boston and throughout the Nation, the only "doctor" known to millions of the Nation's poor is the cold and delapidated emergency room of the urban municipal hospital.

Now, at last, in major health bills like Hill-Burton, Congress is finally facing up to its responsibility in many basic areas, and I am hopeful that our State and local governments will join us in a new partnership to end our long neglect of these vital problems.

Mr. President, before concluding, I wish to commend the distinguished chairman of the Subcommittee on Health of the Committee on Labor and Public Welfare (Mr. YARBOROUGH) for the extraordinary work he has done on this major piece of health legislation. I think all of us are aware of the enormous demands that have been placed upon our hospitals and medical centers throughout the country in recent times. There have been great efforts by many medical personnel and administrators to amend the formula for allocating construction to include the element of need. This matter, of course, has been worked out today in a satisfactory way. I think the chairman is to be commended.

Our good friends on the other side of the aisle have also provided very valuable help and assistance on this question. This is an extremely important and significant piece of health legislation. One of the greatest social needs we face in this country is to provide assistance and help to our hospitals and other health facilities in all parts of the country. This measure will make an extremely helpful contribution to meet that need.

I extend my commendation to the chairman of the Subcommittee on Health (Mr. YARBOROUGH) for his fine work.

Mr. YARBOROUGH. Mr. President, I commend the Senator from Massachusetts for his statement. I concur with him that this is one of the most important health measures that Congress has had before it. This is an extension of the Hill-Burton Act. This is the biggest hospital construction act ever to be passed by Congress. Many of the features have been extended for 5 years, and there is a provision for 6 years in connection with the loan guarantee program. This is a $5 billion program, at $1 billion a year spread between grants, direct loans, and guarantees. In addition, we have the amendment, which was worked over in committee and offered on the floor of the Senate.

In total, we have a bill for grants and authorizations that will cover some $6 billion in grants, loans, and guarantees over the next 5 years for the construction and modernization of hospitals and outpatient clinics. We have treated renovations and the building of new hospitals in a different way than in the past. We think this will release more money than has been used in the past and that it will be a stimulus to the needs of hospitals and outpatient clinics and in the renovation of hospitals.

The Senator from Massachusetts, in his able and perceptive explanation, mentioned the hopsital in Boston. I had visited that hospital in his State at his invitation in my capacity as chairman of the subcommittee. I commend him, as a member of the committee, for the great work he has done in connection with every one of these measures. He has been active in connection with each of them. We have had a number of measures this year, including the migratory health bill, the rubella bill, the bill for vaccination or inoculation for German measles, and other bills that have been passed by the Senate but not passed by the House. We hope the House will move on them soon.

Mr. President, there is a great need in this Nation for this type of bill. This need has been noted throughout the country, including a feature article in the Wall Street Journal. This is a health bill of far-reaching consequences in an area of great need, where we have a great shortage of hospital beds.

I wish to thank the distinguished Senator from Colorado (Mr. DOMINICK), the ranking minority member on the Subcommittee on Health, for the great work he has done on this bill. This has been a bipartisan effort, as shown by the way we were able to work out the amendments in harmony, in order to give hospitalization to the people of this country.

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

Mr. YARBOROUGH. I yield.

Mr. KENNEDY. Mr. President, I wish to underline the observation made by the chairman of the committee. On these health measures we have had genuine bipartisan support. I think the work and contribution of the Senator from Colorado (Mr. DOMINICK) in connection with his amendments has been extremely significant, useful, and important.

The assistance of the Senator from New York (Mr. JAVITS) in developing an alternative to the formula which all of us could embrace deserves mention. I think we are realistic enough to know that when you begin to change a formula that affects each State, it is difficult to reach conclusions which are fair and equitable.

I think it is a tribute to our Republican friends that we have been able to develop this piece of landmark legislation. It is also a great tribute to the chairmanship of the Senator from Texas, because it is due to his leadership that we have been able to achieve such remarkable progress.

I appreciate the comments of the Senator from Texas.

Mr. DOMINICK. Mr. President, will the Senator from Texas yield to me?

Mr. YARBOROUGH. I yield.

Mr. DOMINICK. Mr. President, I wish to join the Senator from Massachusetts in congratulating the Senator from Texas on his management of the bill. I know it has not been easy in the circumstances in which he finds himself, to get through the hearings, and then to the floor of the Senate, and to get amendments worked out as well as they have been worked out.

I wish to take this opportunity to congratulate and thank the staff on both the minority side and the majority side. I think they have done a fine and excellent job on this matter. Certainly I know that without them it would have been almost impossible for us, as Senators, to work out details on the suggestions that have been made for amendments.

Again let me join with the Senator from Texas in saying I think this is an extremely important bill and I think it has great merit. We are going to have some struggle in the conference with the House in getting the Senate position adopted, but it would seem to me there is enough flexibility still left in our bill, and certainly on the House side for a change, to be able to work out something that will be helpful to all of us.

If I may once again, I should like to end by expressing my thanks to the staff and to the Senator from Texas for his cooperation.

Mr. YARBOROUGH. I thank the Senator from Colorado. I join him in commending the staff. I think both the majority and minority staff members have been of inestimable value in working out this bill, particularly the general counsel of the Committee on Labor and Public Welfare, Mr. Jack Forsythe, who makes health bills his special field of work. He is not only general counsel for the committee, but also counsel for the subcommittee in addition.

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. DOMINICK. 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. YARBOROUGH. Mr. President, I ask for the yeas and nays on the question of passage.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. NELSON). 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 Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. YOUNG), are necessarily absent.

I further announce that the Senator from Missouri (Mr. EAGLETON), the Senator from Tennessee (Mr. GORE), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PELL) are absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. MCCAR-

THY), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. YOUNG), the Senator from Missouri (Mr. EAGLETON), the Senator from Tennessee (Mr. GORE), the Senator from Washington (Mr. MAGNUSON), and the Senator from Rhode Island (Mr. PELL), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Alaska (Mr. STEVENS) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from New York (Mr. JAVITS), the Senator from South Dakota (Mr. MUNDT), the Senator from Illinois (Mr. PERCY), the Senator from Idaho (Mr. JORDAN) and the Senator from Alaska (Mr. STEVENS) would each vote "yea."

The result was announced—yeas 79, nays 0, as follows:

[No. 116 Leg.]

YEAS—79

Aiken	Fulbright	Murphy
Allen	Gravel	Muskie
Allott	Griffin	Nelson
Baker	Gurney	Packwood
Bayh	Hansen	Pastore
Bellmon	Hart	Pearson
Bible	Hartke	Prouty
Boggs	Hatfield	Proxmire
Brooke	Holland	Randolph
Byrd, Va.	Hollings	Saxbe
Byrd, W. Va.	Hruska	Schweiker
Cannon	Inouye	Scott
Case	Jackson	Smith, Maine
Church	Jordan, N.C.	Smith, Ill.
Cook	Kennedy	Sparkman
Cooper	Long	Spong
Cotton	Mansfield	Stennis
Cranston	Mathias	Symington
Curtis	McClellan	Talmadge
Dodd	McGee	Thurmond
Dole	McGovern	Tower
Dominick	McIntyre	Tydings
Eastland	Metcalf	Williams, Del.
Ellender	Miller	Yarborough
Ervin	Mondale	Young, N. Dak.
Fannin	Montoya	
Fong	Moss	

NAYS—0

NOT VOTING—21

Anderson	Harris	Pell
Bennett	Hughes	Percy
Burdick	Javits	Ribicoff
Eagleton	Jordan, Idaho	Russell
Goldwater	Magnuson	Stevens
Goodell	McCarthy	Williams, N.J.
Gore	Mundt	Young, Ohio

So the bill (H.R. 11102) was passed.

Mr. YARBOROUGH. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection, the title will be appropriately amended.

Mr. MANSFIELD. Mr. President, the expert and expeditious handling of the measure extending the all-important Hill-Burton program can be attributed solely to the distinguished chairman of the Senate Labor and Public Welfare Committee, the senior Senator from Texas (Mr. YARBOROUGH). Senator YARBOROUGH once again demonstrated his expertise in successfully guiding this extremely important bill. Its unanimous adoption by the Senate speaks well for his great legislative skill. May I say that no Member of this body exceeds Senator YARBOROUGH when it comes to asserting effective legislative ability. The Senate and the entire Nation is in his debt.

Joining Senator YARBOROUGH in offering a meaningful and worthwhile presentation of this measure was the distinguished Senator from Colorado (Mr. DOMINICK). His knowledge of the needs and resources in this vital area are well known. He deserves our heartfelt commendation for his assistance in bringing his always thoughtful views and cooperation to the Senate.

Both Senator KENNEDY and Senator SAXBE are also to be commended for their contributions to the discussion. Senator SAXBE, on behalf of Senator JAVITS, presented thorough and helpful views and offered most important amendments.

The Senate as a whole is to be commended for the swift but thorough manner in which it disposed of this measure. I am deeply grateful.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. HACKNEY, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 2363) to confer U.S. citizenship posthumously upon L.Cpl. Andre L. Knoppert.

The message also announced that the House insisted upon its amendment to the bill (S. 952) to provide for the appointment of additional district judges, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CELLER, Mr. RODINO, Mr. ROGERS of Colorado, Mr. MCCULLOCH, and Mr. POFF were appointed managers on the part of the House at the conference.

EMPLOYMENT SECURITY AMENDMENTS OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 755, H.R. 14705.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows: A bill (H.R. 14705) to extend and improve the Federal-State unemployment compensation program.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with amendments, on page 1, line 4, after the word "of", strike out "1969" and insert "1970"; in line 8, after "SEC. 101.", strike out "Definition of Employer", and insert "Conforming Amendment"; after line 9, strike out:

(a) Section 3306(a) of the Internal Revenue Code of 1954 is amended to read as follows:

"(a) EMPLOYER. For purposes of this chapter, the term 'employer' means, with respect to any calendar year, any person who—

"(1) during any calendar quarter in the calendar year or the preceding calendar year paid wages of $800 or more, or

"(2) on each of some 20 days during the calendar year or during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment for some portion of the day."

(b)(1) Section 6157(a)(1) of such Code (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended to read as follows:

"(1) if the person—

"(A) during any calendar quarter in the preceding calendar year paid wages of $800 or more, or

"(B) on each of some 20 days during the preceding calendar year, each day being in a different calendar week, employed at least one individual in employment,

compute the tax imposed by section 3301 for each of the first three calendar quarters in the calendar year, and".

On page 3, at the beginning of line 1, strike out "(2)" and insert "(a)"; after line 5, strike out:

(c)(1) The amendments made by subsections (a) and (b)(1) shall apply with respect to calendar years beginning after December 31, 1971.

At the beginning of line 9, strike out "(2)" and insert "(b)"; in the same line, after the word "subsection", strike out "(b)(2)" and insert "(a)"; on page 4, line 3, after "Sec. 103." strike out "Definition Of" and insert "Agricultural Labor"; after line 17, strike out:

(b) The amendment made by subsection (a) shall apply with respect to remuneration paid after December 31, 1971, for services performed after such date.

After the amendment just above stated, insert:

(b)(1) Section 3306(c)(1) of such Code is amended to read as follows:

"(1) agricultural labor (as defined in subsection (k)) unless performed in the employ of a person (other than a crew leader as defined in section 3121(o)) who during the calendar year or preceding calendar year had 8 or more individuals in his employ to perform services which constitute agricultural labor (as so defined) during each of at least 26 calendar weeks;". (2) Section 3306(b) of such Code is amended—

(A) by striking out "or" at the end of paragraph (9);

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; or"; and

(C) by adding after paragraph (10) the following new paragraph:

"(11) remuneration paid in any medium other than cash for agricultural labor.".

(c) The second sentence of section 3121(o) of such Code is amended by striking out

"this chapter and chapter 2" and inserting in lieu thereof "this chapter, chapter 2, and chapter 23".

(d) The amendments made by subsection (a) and subsection (b)(2) shall apply with respect to remuneration paid after December 31, 1971, for services performed after such date; and the amendments made by subsection (b)(1) and subsection (c) shall apply with respect to services performed after December 31, 1971.

On page 6, line 7, after the word "paragraph", strike out "(12)" and insert "(13)"; in line 13, the word "law;" strike out "except that, with respect to service for an institution of higher education to which section 3309(a)(1) applies, the State law may provide the extent to which compensation based on such service shall not be payable for the period from the end of the institution's regular spring semester, quarter, or other term until the beginning of the institution's next regular fall semester, quarter, or other term, and" and, in lieu thereof, insert "except that, with respect to service in an instructional, research, or principal administrative capacity for an institution of higher education to which section 3309(a)(1) applies, compensation shall not be payable based on such service for any week commencing during the period between two successive academic years (or, when the contract provides instead for a similar period between two regular but not successive terms, during such period) to any individual who has a contract to perform services in any such capacity for any institution or institutions of higher education for both of such academic years or both of such terms, and"; on page 9, after line 10, strike out:

"(4) in the case of an institution of higher education, by an individual employed in an instructional, research, or principal administrative capacity;

"(5) in a facility conducted for the purpose of carrying out a program of—

"(A) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or

"(B) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work;

And, in lieu thereof, insert:

"(4) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, by an individual receiving such rehabilitation;

On page 10, at the beginning of line 5, strike out "(6)" and insert "(5)"; at the beginning of line 10, strike out "(7)" and insert "(6)"; on page 13, line 8, after "(d)", strike out "The" and insert "(1) Subject to the provisions of paragraph (2), the"; after line 13, insert:

(2) Section 3304(a)(6) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) shall not be a requirement for the State law of any State prior to July 1, 1972, if the legislature of such State does not meet in a regular session which closes during the calendar year 1971.

On page 14, line 17, after the word "compensation", insert "or in the Virgin Islands"; on page 17, after line 5, insert a new section, as follows:

SEC. 108. COVERAGE OF EMPLOYEES OF HOSPITALS AND INSTITUTIONS OF HIGHER EDUCATION OPERATED BY POLITICAL SUBDIVISIONS OF STATES

(a) Section 3304(a) of the Internal Revenue Code of 1954 (as amended by sections 104, 121(a), and 206 of this Act) is further amended by adding after paragraph (11) (as added by section 206 of this Act) the following new paragraph:

"(12) each political subdivision of the State shall have the right to elect to have compensation payable to employees thereof (whose services are not otherwise subject to such law) based on service performed by such employees in the hospitals and institutions of higher education (as defined in section 3309(d)) operated by such political subivision; and, if any such political subdivision does elect to have compensation payable to such employees thereof (A) the political subdivision shall pay into the State unemployment fund, with respect to the service of such employees, payments (in lieu of contributions), and (B) such employees will (except to the extent otherwise provided in paragraph (6)(A) in the case of employees in an instructional, research, or principal administrative capacity) be entitled to receive, on the basis of such service, compensation payable on the same basis, in the same amount, on the same terms, and subject to the same conditions as compensation which is payable on the basis of other service subject to such law;".

(b) The amendments made by subsection (a) shall apply with respect to certifications of State laws for 1972 and subsequent years; except that section 3304(a)(12) of the Internal Revenue Code of 1954 (as added by subsection (a)) shall not be a requirement for the State law of any State prior to January 1, 1975, if compliance with such requirement would necessitate a change in the constitution of such State.

On page 20, line 13, after "(b)", strike out "The" and insert "(1) Subject to the provisions of paragraph (2), the"; after line 16, insert:

(2) Paragraphs (7) through (10) of section 3304(a) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) shall not be requirements for the State law of any State prior to July 1, 1972, if the legislature of such State does not meet in a regular session which closes during the calendar year 1971.

On page 28, at the beginning of line 11, strike out "with first attention to domestic workers in private households."; in line 17, after "30," strike out "1970" and insert "1971"; on page 29, at the beginning of line 6, strike out "training programs and courses for persons occupying or preparing to occupy positions" and insert "programs and courses designed to train individuals to prepare them, or improve their qualifications, for service"; on page 30, line 23, after "30," strike out "1970" and insert "1971"; on page 32, line 2, after "30," strike out "1970" and insert "1971"; on page 35, line 9, after the word "contains", strike out "the provisions specified in paragraphs (6), (7), (8), (9), (10), and (11) of subsection (a)"; and insert "each of the provisions required by reason of the enactment of the Employment Security Amendments of 1970 to be included therein,"; on page 36, line 15, after the word "of", strike out "1969" and insert "1970"; on page 46, line 12, after the word "of", strike out "1969" and insert "1970"; on page 47, line 12, after "(c)", strike out "Section 3304(a)(11) of the Internal Revenue Code of 1954 (as added by section 206) shall not be a requirement for State laws with respect to any week of unemployment beginning before January 1, 1972" and, in lieu thereof, insert "Section 3304(a)(11) of the Internal Revenue Code of 1954 (as added by section 206) shall not be a requirement for the State law of any State—

"(1) in the case of any State the legislature of which does not meet in a regular session which closes during the calendar year 1971, with respect to any week of unemployment which begins prior to July 1, 1972; or

"(2) in the case of any other State, with respect to any week of unemployment which begins prior to January 1, 1972"; on page 48, at the beginning of line 3, insert "(a)"; after line 13, insert:

(b) For purposes of section 6157 of the Internal Revenue Code of 1954 (relating to payment of Federal unemployment tax on quarterly or other time period basis), in computing tax as required by subsections (a)(1) and (2) of such section, the percentage contained in subsection (b) of such section applicable with respect to wages paid in any calendar quarter in 1970 ending before the date of the enactment of this Act shall be treated as being 0.4 percent.

On page 49, line 25, after the word "section", strike out "2012" and insert "2003"; on page 50, line 11, after "(iv)", strike out "subchapter II of"; in line 12, after the word 'section", strike out "2012" and insert "2003)"; in line 13, after the word "States" strike out "Code)" and insert "Code,"; on page 54, at the beginning of line 24, insert "Sec. 902."; on page 56, at the beginning of line 25, strike out "April" and insert "July"; on page 58, line 21, after the word "of", strike out "1969" and insert "1970"; on page 59, line 4, after the word "of", strike out "1969" and insert "1970"; and after line 14, insert:

(b) Section 903a()(1) of the Social Security Act is amended to read as follows: "(1) If as of the close of any fiscal year after the fiscal year ending June 30, 1972, the amount in the extended unemployment compensation account has reached the limit provided in section 905(b)(2) and the amount in the Federal unemployment account has reached the limit provided in section 902(a) and all advances pursuant to section 905(d) and section 1203 have been repaid, and there remains in the employment security administration account any amount over the amount provided in section 901(f)(3)(A), such excess amount, except as provided in subsection (b), shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund."

Mr. LONG. Mr. President, first, I should like to ask that the distinguished Senator from Minnesota (Mr. MCCARTHY) be notified that the bill is now before the Senate. I would also like to ask that the distinguished Senator from Connecticut (Mr. RIBICOFF) be notified that the bill is now before the Senate, because those two Senators might be interested in offering amendments to the bill. Any other Senator who may have a par-

ticular interest in it should also be notified.

Mr. President, this is a rather significant bill and I hope that if Senators care to offer amendments they will do so tonight, so that we may proceed to a vote on them and move expeditiously with this measure.

The bill before us today, if enacted, will represent the most significant legislation to amend the unemployment compensation program since its enactment in 1935 as part of the Social Security Act. Senators will recall that similar legislation was approved by both House and Senate in 1966, but was not enacted into law because of the inability of both houses to resolve their differences in conference.

The bill before us today would extend the coverage of the unemployment compensation program to more than 4 million additional jobs; establish a permanent program of extended benefits for people who exhaust their regular State benefits during periods of high unemployment; improve the financing of the program; and make other changes to strengthen the Federal-State unemployment compensation system.

The bill is a good one—it does not go as far as some persons would like, and it goes further than others would like, but on the whole it represents a reasonable compromise supported by virtually every witness testifying before the Committee on Finance.

The bill was given careful and thorough consideration by the committee. Three days of hearings were held in March, involving 368 pages of testimony, in addition to the extensive work done in connection with unemployment compensation in 1966.

Now, Mr. President, I would like to highlight some of the major features of the committee bill.

COVERAGE

About 58 million jobs today are protected by our unemployment compensation system. About one-half of the 16.6 million jobs not now covered are in State and local governments. Most of these jobs would not be affected by the committee bill. The bill would, however, extend coverage to up to 4.4 million of the 16.6 million jobs not covered under present law.

It might be well to point out that if one excludes from the area of coverage State and local government, the bill then extends coverage to about one-half of those who are presently left out.

So the bill does go a long way toward providing coverage to those who are not now covered.

Employees of nonprofit organizations represent the largest single group affected by the committee bill. Under the bill, States would be required to extend coverage to 2.2 million jobs in nonprofit organizations. The bill does not require extension of coverage to all jobs in nonprofit organizations. First, nonprofit organizations would need to be covered only if they employed four or more persons in 20 weeks during the year. In addition, coverage would not have to be extended to the employees of a church or religious organization, to clergymen or members of religious orders, to elementary and secondary schools, to handicapped individuals receiving rehabilitation, to individuals receiving Government-assisted work relief and work training, or to inmates of correctional institutions employed in a hospital connected with the institution.

About five-sixths of the 2.2 million jobs covered in nonprofit organizations are in hospitals and institutions of higher education. The bill also requires that States provide unemployment insurance coverage to 940,000 jobs in State hospitals and institutions of higher education. The Committee on Finance added an amendment to the House bill requiring States to permit the employees of a county or municipal hospital or institution of higher education to be covered, at the option of the governmental unit, under an agreement to make payments in lieu of taxes. Up to 436,000 jobs are affected by this committee amendment.

In its provisions requiring extension of coverage to employees of nonprofit organizations, the House bill specifically excluded clients of sheltered workshops. The committee deleted this exclusion because we felt it appropriate and desirable to extend coverage to clients of sheltered workshops if they become unemployed.

The House bill also excluded faculty, research, and administrative personnel in institutions of higher education from its coverage requirements. The committee bill deletes the exclusion, but contains an additional provision to assure in Federal law that these additional employees are not to be considered unemployed if they have a contract to resume work after the summer vacation.

The committee bill, like the House bill, extends coverage to 190,000 agricultural processing workers. In addition, however, the committee bill extends coverage for the first time to employees of large farms. Under the committee amendment, farm employers who have eight or more employees in each of 26 different weeks during the year would be brought under the program and their employees would become eligible for unemployment compensation benefits. The committee amendment is intended to extend coverage to those large farms which most nearly present a stable year-round employment situation comparable to that of business and industry. The provision would not affect the typical family farm or a farm employing more than eight workers for only a brief harvesting season.

The committee felt it desirable to limit the newly provided coverage so that we may gain administrative and cost experience before considering extension of coverage. Thus the committee bill would exclude the employees of a crew leader from coverage under Federal law, even if the crew leader had eight or more employees in at least 26 weeks. The committee wished to limit the provision to those agricultural employees whose employment experience most closely resembles that of industrial employees; coverage of migratory labor might well present difficult administrative problems, and it might prove costly.

Even though the committee bill would affect only 2 percent of farm employers in the Nation, it would extend coverage to almost one-fifth of agricultural employees.

The committee bill, like the House bill, extends coverage to 210,000 additional jobs by amending the definition of "employee" to bring it closer to the definition used in the social security program. Under this provision, coverage would be extended to traveling and city salesmen, and agent and commission drivers engaged in the distribution of certain products. Another modification in the definition of employment in both the committee bill and the House bill would provide coverage under Federal law for the first time to 160,000 U.S. citizens employed abroad by American employers. Employment in Canada would be excluded, since reciprocal arrangements already exist with that country.

The committee deleted a provision of the House bill which would have required all States to cover employees of small firms—those which employ one or more employees in each of 20 weeks or which pay wages of $800 or more in a quarter. The effect of the committee amendment would be to retain the text of present law, which applies only to employers who have four or more workers in their employ during 20 weeks of the year.

The committee felt that the House provision would add a substantial burden of additional tax expenses and bookkeeping costs to small retailers. In addition, many employees of small firms are part-time workers who would not be able to qualify for unemployment benefits. Twenty-eight States already cover firms smaller than required by Federal law, covering 1.4 million workers. The committee felt that coverage of these small firms and their employees should continue to be left to the judgment of State legislators.

PROVISIONS REQUIRED TO BE INCLUDED IN STATE LAWS

The committee accepted the provisions of the House bill imposing four new requirements on State unemployment compensation laws.

First, State laws would have to prohibit the so-called "double-dip" which in some States allows a worker to draw benefits in 2 successive benefit years following a single separation from work.

Second, a State could not deny compensation to a worker undergoing training with the approval of the State agency.

Third, States would not be permitted to deny or reduce benefits because a claimant lives or files a claim in another State or in Canada. States would have to participate in arrangements for combining wage credits in order to assure the prompt and full payment of compensation in such situations.

Fourth, though nothing in the bill would affect the State's right to disqualify an individual from receiving his benefits if he voluntarily quit his job, the bill would prevent a State from wiping out entirely his wage credits, which he might use at some later time if he qualified for benefits.

FEDERAL-STATE EXTENDED BENEFIT PROGRAM

The committee bill, like the House bill, would establish a new permanent program to pay extended benefits during periods of high unemployment to workers who exhaust their basic entitlement to regular unemployment compensation. These extended benefits would be paid workers for not more than 13 weeks, and only during an "extended benefit" period. Such a period would exist on either a national or State basis beginning in 1972 if unemployment rises above a particular point defined in the bill. States would have to enact suitable legislation by 1972.

Though States would not be required to have an extended benefit program until 1972, the bill makes special provision permitting a State to adopt a program, with Federal matching, before 1972. Any State whose unemployment has risen above the level specified in the bill could legislate an extended benefit period between 2 months after enactment of this bill and January 1, 1972. If the bill were to become law in May of this year, an interim period of 17 months could be covered by the State.

The Federal Government and the States would share equally in the extended benefit program costs. both after January 1, 1972, and in any State program established before that time.

FINANCING

Under present law, employers pay a net Federal tax of 0.4 percent on the first $3,000 paid employees during a calendar year. The committee bill, like the House bill, would increase the net Federal tax rate from 0.4 percent to 0.5 percent beginning with wages paid in the current calendar year. The taxable wage base would be increased from $3,000 to $4,200 beginning with calendar year 1972.

OTHER PROVISIONS

There are a number of other provisions in the bill, Mr. President, which provide for judicial review of the Secretary of Labor's decisions and which strengthen Federal and State administration of the unemployment compensation program.

I refer my colleagues to the appropriate sections of the committee report for detailed information about these provisions.

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

The PRESIDING OFFICER. The clerk will 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 committee amendments be agreed to en bloc, and that they be regarded as original text for the purpose of amendment, reserving the right of any Senator to amend in both the second and first degrees.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 575

Mr. WILLIAMS of Delaware. Mr. President, I call up amendment No. 575.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD is as follows:

At the proper place insert the following new section:

SEC. . (a) Section 22A(b)(1) of the Second Liberty Bond Act (31 U.S.C. 757c–2) is amended to read as follows:

"(b)(1) Retirement and savings bonds shall be issued only on a discount basis, and shall mature either ten years or twenty years from the date as of which issued, as the terms thereof may provide. Such bonds shall be sold at such price or prices and shall be redeemable before maturity upon such terms and conditions as the Secretary of the Treasury may prescribe, except that the issue price of such bonds, and the terms upon which they may be redeemed at maturity, shall be such as to afford an investment yield of 6 per centum per annum, compounded semiannually. The denominations of such bonds shall be such as the Secretary of the Treasury may from time to time determine and shall be expressed in terms of their maturity values. Not more than $3,000 in maturity value of such bonds issued in any one year may be held by any one person at any one time."

(b) Notwithstanding any provision of subsection (a) of section 22A of the Second Liberty Bond Act, the Secretary of the Treasury shall, beginning not later than July 1, 1970, issue United States retirement and savings bonds authorized by section 22A of such Act in such amounts (subject to the limitations imposed by section 21 of such Act) as may be necessary to permit individuals to purchase such bonds in the amounts permitted under subsection (b)(1) of section 22A of such Act (as amended by subsection (a) of this section).

Mr. WILLIAMS of Delaware. Mr. President, the purpose of this amendment is to establish a new type of savings bond which will be sold on a discount basis, with maturity dates of either 10 years or 20 years from the date of issuance. The bonds would bear interest at the rate of 6 percent compounded semiannually.

Under the existing law series E bonds pay 5 percent interest. Yet large investors can buy a regular Government bond with the same maturity bearing interest of 7¾ percent. At one time Government bonds were bearing 8¼ percent interest; but these latter bonds were not available in denominations below $1,000 and in some instances the minimum is $10,000.

It is my contention that small investors are entitled to higher interest rates than they are getting now.

This proposal would not interfere with the sale of series E bonds, which are limited to $10,000. A man and his wife could buy $20,000 worth of those series E bonds. They could continue to do that even if this amendment were enacted. It does not interfere with that issue of savings bonds, but the proposal in this amendment sets up a new type of bond which would be available in amounts up to a par value of $3,000 a year. It means that no individual could buy more than $3,000 of these two issues of bonds; that is, $3,000 of the 10-year bonds and $3,000 par value of the 20-year bonds.

On a discount basis a 10-year bond with a par value of $100 would be priced at around $55, and a 20-year bond with a par value of $100 would be priced at $31 to $32.

Thus, the total investment that any one individual could make in these two types of bonds would be less than $2,700 a year, which clearly confines it to the very small investors.

I have said I would have no objection if the amount were lowered as long as we protected the very small investor, but it does not seem fair to me that small investors are being asked on the basis of patriotism to buy Series E bonds at 5 percent interest rates, while at the same time a man with a minimum of $10,000 can today get 8 percent interest if he holds a Government bond of similar maturity; or he can buy outstanding bonds which are listed on the Exchange which are still being sold in denominations of $1,000.

It boils down to the point that if a man has $1,000 he can get 7 to 7½ percent. If he has $10,000 he can get 8 percent, but if he has only $100 or $500 he can get only 5 percent from the Government.

That is completely in reverse of the principle established many years ago when we paid the small investor one-quarter percent to one-half percent more than was being paid to large investors. I think the time is long overdue when we should reverse this procedure.

As I stated, these bonds would be limited to investors in amounts not to exceed $3,000 worth of each issue of bonds a year, which would confine that investment to the very small investor.

I do not see how in the interest of fairness anyone can object to this proposal. It is not a question of whether or not we like high interest rates. We already have high interest rates. A man with a substantial amount of money can invest and get high interest rates. The only man being denied the benefit of high interest rates is the very small investor.

I do not see how any Member of the Senate could oppose a proposal such as this. I think it is long overdue. In the interest of fairness this amendment should be adopted by the Senate.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. BAKER. May I associate myself with the eloquent and well-reasoned remarks of the Senator from Delaware, who is one of the, if not the, country's

foremost authorities on the fiscal integrity of the United States.

This is a field in which we should now direct our attention to a specific inequity which resulted not by prearrangement but because of the extraordinary performance of the money market and the cost of credit in the United States in the last several years.

As I have traveled around the country, it has distressed me to see advertisements by savings and loan institution, commercial banks, and other institutions offering interest on Golden Passbook Savings and a variety of deposits that run 5, 6, 7, and sometimes more than 7 percent for the very large investor. I recall one advertisement on the west coast, if my memory serves me correctly, which guaranteed 7½ percent on certificates of deposit in denominations of no less than $1,000.

The point is, as the Senator from Delaware has stated, that the small saver and small investor in the United States is not a party to the high rates of interest received. Savings bonds and Government bonds are the exact place where that opportunity should be offered to the small investor.

I commend the Senator from Delaware for his proposal. I support it.

Mr. WILLIAMS of Delaware. I thank the Senator.

Another point that should be made is that under existing law, while the small investor is getting the small rates of interest he usually pays the high interest rates under any system because he often borrows from finance companies.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG. Does the Senator desire the yeas and nays on his amendment?

Mr. WILLIAMS of Delaware. Yes.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, I want to point out one other strong argument in favor of this amendment. As the Senator from Tennessee pointed out, we cannot say enough about this amendment in the interest of fairness, but I want to emphasize another argument. We are confronted with a serious inflation today. Inflation is a serious threat in this country. We are seeing substantial wage increases at all levels of industry and government. If we could initiate a realistic and attractive savings bond program for small savers we could siphon into savings much of this money now going into the consumer spending stream of America. This would be one of the greatest benefits we could get from such a savings bond program. That argument alone makes this a more attractive savings bond program.

Under this proposed program, conceivably a man could buy one $100 10-year bond and one $100 20-year bond each month by having about $87 to $87.50 a month deducted from his salary. If he continued to buy these for 10 years, beginning in 10 years, as those bond matured, he would, as he cashed them, increase his income by $100 per month for a 20-year period. Such a program could be utilized by an individual to increase his retirement income. That is why they are called retirement bonds and savings bonds. I think it is long past the time when we encourage individuals who are 45 and 55 years of age to lay aside something for their retirement which would be a supplement for their social security or retirement payments.

Any one of these arguments would justify support of my proposal. While we do not have a letter either opposing or supporting this amendment I feel confident the administration itself would support it.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. HANSEN. I would like to associate myself with the remarks of the distinguished Senator from Delaware. I think he has touched on a very valid reason for supporting the amendment, which is the fact that it is anti-inflationary. As he has pointed out, this is the sort of spendable income more than any other source that contributes substantially to inflationary pressures. If we could give greater encouragement for people to make investments in savings bonds, in small amounts, it would serve two useful purposes to our Government: First, it would help finance the Government, and, second, we would take money out of the spending stream which would do much to relieve pressures which are already of such concern to us.

So, in paying the small extra amount of interest that the Senator from Delaware has proposed be paid under his amendment, we will give encouragement that will put less pressure on our economy and thereby return a significant benefit to all the people, particularly those on fixed incomes, those on pensions, those on annuities, whatever the case may be, even those on social security.

If we can reduce the total buying pressure that is applied through the dollars that go into the marketplace, then we will be helping those very persons whose concerns should be uppermost in our minds.

I am proud to associate myself with the remarks of the distinguished senior Senator from Delaware. I support the amendment.

Mr. WILLIAMS of Delaware. I thank the Senator.

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

Mr. WILLIAMS of Delaware. In just a moment.

I point out, Mr. President, that we have a nationwide savings bond program operating under the Treasury Department, and its personnel throughout the country are drawing salaries all the way from $10,000 for the lower-grade clerks up to $28,000 a year—this for selling these low-yielding series E bonds to the people. Congress, in raising salaries over the years, has increased their salaries substantially. I do not think that, as a government, we can condone having these high-paid employees promoting a savings bond program which they themselves will admit is not fair today and cannot be justified by anyone. I do not think anyone in the Government will attempt to justify the low rate of 5 percent interest being paid to these small savers.

I think this is a long overdue correction, and I certainly hope it will be approved.

I yield to the Senator from California.

Mr. MURPHY. I thank my distinguished colleague. I should like to say that, as always, the suggestion made by the distinguished Senator from Delaware makes absolute, complete good sense. It is something that should have been done long ago. The reasons why it should be done now the Senator has expressed far better than I could express them, and I heartily endorse his proposal, and associate myself once again with an effort of my distinguished colleague from Delaware who has through the years performed such great service to this Nation in these particular areas, as well as other areas concerning the general welfare.

Mr. WILLIAMS of Delaware. I thank my colleague.

Yes, I strongly recommend this as a measure to combat inflation as well as a step toward equity. I say this as one who a year or two ago was a sponsor of the measure which initiated the 10-percent surtax on the basis that we needed the revenue and that at the same time it would siphon some of the money out of the spending stream by paying a greater percentage of the cost of operating the Government.

The Government is borrowing money on which to operate today. Much of it is short-term money, and we are paying as high as 8-percent interest. But here is an opportunity to borrow money at 6-percent interest, on a 10-to-20 year basis at a time when we are paying substantially higher interest on larger amounts.

It can be argued, "Why not raise this yield beyond the 6 percent?" I think the 6 percent is adequate, because there is an advantage which the man buying these savings bonds has that the larger bond buyer does not have; and that is, that the savings bond buyer will receive tax deferment on the interest accumulated until they mature 10 or 20 years hence. That would offset some of the discrepancy between the 6-percent bond and the 7½ or 7¾ percent received by the larger investor.

It has a further advantage in that at all times, just as in the case of series E bonds, the principal is 100 percent protected, and the investor can always get his principal plus some interest back. Those advantages would be perpetuated under this new type of bond.

This 6 percent is no more than fair, and I think it would be one of the most important steps we could take to combat the inflationary spiral.

Mr. President, I am ready to yield at this point and vote on the measure.

Mr. LONG. Mr. President, the Senator has offered amendments of this sort to major revenue bills in previous Congresses. I have opposed them and I have been voted down, and I have dutifully gone to the House of Representatives and asked the House to accept the Sen-

ate amendments on such occasions. I remain pretty much of the same opinion as in the past; and I believe the RECORD will fully reflect the reasons why I have felt that this type of amendment should not be agreed to.

However, in view of the fact that the Senate agreed to this type of amendment on other occasions, I do not feel that there is any purpose to be served by engaging in any extended debate of the matter.

So, with a mild protest, I am prepared to permit the matter to come to a vote.

Mr. WILLIAMS of Delaware. I am ready to vote.

The PRESIDING OFFICER (Mr. CRANSTON). The question is on agreeing to the amendment of the Senator from Delaware. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I anounce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. GORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Kentucky (Mr. COOK and Mr. COOPER), the Senators from Nebraska (Mr. CURTIS and Mr. HRUSKA), and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. GOODELL), the Senator from Nebraska (Mr. HRUSKA), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 71, nays 4, as follows:

[No. 117 Leg.]

YEAS—71

Aiken	Fulbright	Moss
Allen	Goldwater	Murphy
Allott	Gravel	Muskie
Baker	Griffin	Packwood
Bayh	Gurney	Pastore
Bellmon	Hansen	Pearson
Bible	Hart	Prouty
Boggs	Hartke	Proxmire
Brooke	Hatfield	Randolph
Byrd, Va.	Holland	Schweiker
Byrd, W. Va.	Hollings	Scott
Cannon	Inouye	Smith, Maine
Case	Jackson	Smith, Ill.
Church	Jordan, N.C.	Sparkman
Cotton	Kennedy	Spong
Cranston	Mansfield	Stevens
Dodd	Mathias	Symington
Dole	McClellan	Thurmond
Dominick	McGee	Tower
Eagleton	McIntyre	Tydings
Ellender	Metcalf	Williams, Del.
Ervin	Miller	Yarborough
Fannin	Mondale	Young, N. Dak.
Fong	Montoya	

NAYS—4

Long	McGovern	Nelson
McCarthy		

NOT VOTING—25

Anderson	Harris	Ribicoff
Bennett	Hruska	Russell
Burdick	Hughes	Saxbe
Cook	Javits	Stennis
Cooper	Jordan, Idaho	Talmadge
Curtis	Magnuson	Williams, N.J.
Eastland	Mundt	Young, Ohio
Goodell	Pell	
Gore	Percy	

So the amendment of Mr. WILLIAMS of Delaware was agreed to.

Mr. LONG. Mr. President, I should like to announce that it is the plan to have further rollcall votes today. I hope that Senators will stay here, because we hope to abbreviate debate on amendments and we hope to vote on the bill this evening.

Mr. SPARKMAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Alabama proposes an amendment, at the appropriate place, insert the following:

SEC. —. (a) Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c) (relating to exempted securities) is amended by adding at the end of paragraph (2) the following: "or any security consisting of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by the United States or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory, or by any public instrumentality of one or more States or territories, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, if under section 103(c) of the Internal Revenue Code of 1954 (exclusive of section 103(c)(7) thereof) gross income does not include interest on such bond, note, debenture, or other evidence of indebtedness;".

(b) Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c) (relating to exempted securities) is amended by inserting after "any municipal corporate instrumentality of one or more States;" in paragraph (12) the following: "or any security consisting of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any one of the foregoing governmental units which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, if under section 103 of the Internal Revenue Code of 1954 (exclusive of section 103(c)(7) thereof) gross income does not include interest on such bond, note, debenture, or other evidence of indebtedness;".

(c) The amendments made by this section shall apply with respect to securities consisting of obligations evidenced by any bonds, notes, debentures, or other evidences of indebtedness sold after January 1, of 1967.

Mr. SPARKMAN. Mr. President, this amendment is offered on behalf of myself and my colleague (Mr. ALLEN), as well as my good neighbor, the Senator from Tennessee (Mr. BAKER).

This is an amendment that we offered back when the tax reform bill was up. It was accepted in the Senate and taken to conference, but the conference did not agree on the amendment itself, but did agree that since it was something that they thought could be handled administratively, they would refer the matter to the Securities and Exchange Commission. That was done.

The amendment has to do with local development funds. We exempted the local development funds from taxation up to a maximum of $5 million. Then, after that was done, it was our thought and I believe our understanding that consideration by the Internal Revenue Service and approval by the Internal Revenue Service would be all that was required; but following that, the Securities and Exchange Commission came in administratively and took over the matter of certifying or approving the bonds.

Now, Mr. President, the amount is usually so small that it is simply not economical for the smaller communities to go through the Securities and Exchange Commission. In addition to that, there is a long, drawn out wait, redtape, and costly proceedings. The matter was taken up with the Securities and Exchange Commission, following the report by the conference committee, and then Chairman Budge of the Securities and Exchange Commission wrote a letter in which he recognized the difficulties that we had pointed out; but he did not feel he could withdraw the requirement for certification.

I believe that he has indicated and did say, if I recall it correctly, that it was a matter for legislative action. That being the case, we thought that the proper thing to do would be to reoffer it in order to seek the legislative action that the chairman referred to in his letter.

Mr. BAKER. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. BAKER. I have joined in sponsorship of the measure with the distinguished Senator from Alabama, and I urge that it be accepted and adopted by the Senate.

This is an illustration of a situation in which I believe there are results that no one ever intended. Under the vagaries of the law and the ability to interpret in different ways in a logical manner the same language to reach the end result, the small communities and the small authorities devoted to civic and indus-

trial improvements, especially in the rural areas of the country, have been hamstrung in their efforts by the elimination of their principal fiscal tool.

I assign no blame. I agree that the Securities and Exchange Commission, by the generic law that established it, has not only the right but also the obligation to look at this matter. I believe that the Senate and the Congress as a whole never intended this result but, rather, intended that industrial development bonds and securities of this type should not be regulated.

We have now exhausted the administrative remedy and it is time to do what Congress must do on occasion, and that is to clarify the basic intention of the Congress. The basic intention is that we have to limit authority in this way by not requiring complex, costly preissuance clearance by the Securities and Exchange Commission.

I think the facts that the Senate adopted this amendment in the previous session and that, according to my information at least, it is generally acceptable to the Members of the other body militates strongly in its favor at this time.

Mr. SPARKMAN. Mr. President, I thank the Senator from Tennessee. I think he has correctly stated the situation.

As a matter of fact, formerly all of the industrial development bonds were tax free. It was only about 2 years ago that the proposal was made to remove that tax-free status. It was then that there was worked out on the floor of the Senate and in the conference committee an exemption for the limitation of $5 million. It certainly was not our intention at that time that the Securities and Exchange Commission should step in at all.

Mr. BAKER. Mr. President, the Senator from Alabama is due an especial vote of gratitude for his recognition of the fact that prior to this enactment there were abuses of this provision, I believe, and that those of us who advocate the continuance of tax-free bonds of some types join with him in agreeing to a limitation.

All we have now is the device available only for small development by large and small communities. This underscores the necessity for it. This is their only way of financing.

Mr. SPARKMAN. The Senator is correct. With reference to the statement of the Senator, it is my understanding that the other body will be receptive to this proposal.

The chairman of the House Ways and Means Committee has stated all the way through this principle that we are arguing for here. The chairman of the House Ways and Means Committee wrote the Chairman of the Securities and Exchange Commission along the lines of the recommendation of the report of the conference committee and pointed out to him that they thought that it ought to be done, but that they felt it could be done administratively.

Mr. BAKER. Mr. President, I tried to call the distinguished chairman of the House Ways and Means Committee a few minutes ago to advise him of our action in this respect. I was told that he was before the House Rules Committee.

Mr. SPARKMAN. Mr. President, I do feel we are safe in assuming that the other body will be favorable to the reception of this provision.

Mr. LONG. Mr. President, the Senate has passed the measure once. The Senator offered an amendment and I agreed to accept it, when we were acting on the tax reform bill. The House at that time would not agree to it, as the Senator has outlined.

If the Senator has reason to believe that the position of the chairman and the members of the House Ways and Means Committee who will meet with us in conference on this matter might have changed, I would be glad to explore the matter again and see if we can prevail upon them to agree with us. On that basis, I would be willing to agree to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama (Mr. SPARKMAN).

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

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.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the yeas and nays on the McCarthy amendment when it is offered.

The PRESIDING OFFICER. Is there objection? Without objection, it will be in order to ask for the yeas and nays on the McCarthy amendment when it is offered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were 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. McCARTHY. 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. McCARTHY. 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. McCARTHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD is as follows:

On page 17, line 13, strike out "206" and insert "121(a)".

On page 17, line 11, strike out "104, 121(a), and 206" and insert "104 and 121(a)".

On page 17, line 12, strike out "(11)" and insert "(10)".

VIZ: On page 6, line 7, strike out "(13)" and insert "(12)".

On page 17, line 15, strike out "(12)" and insert "(11)".

On page 18, line 13, strike out "3304(a)(12)" and insert "3304(a)(11)".

Beginning on page 36, line 18, strike out all through page 37, line 19, and insert in lieu thereof the following:

"AGREEMENTS WITH STATES

"SEC. 202. (a)(1) The Secretary is authorized on behalf of the United States to enter into an agreement with any State or with the agency administering the State law of such State, under which such State agency will make, as agent of the United States, payments of extended compensation in accordance with this title and will otherwise cooperate with the Secretary and with other State agencies in making payments of such compensation.

"(2) Each agreement under this title shall provide the terms and conditions upon which the agreement may be amended, suspended, or terminated.

"(3) Any agreement under this title with a State or the State agency administering the State law of such State shall provide that payment of extended compensation shall be made, for any week of unemployment which begins in the individual's eligibility period, to individuals who have exhausted all rights to regular compensation under the State law and who have no rights to regular compensation with respect to such week under such law or any other State unemployment compensation law or to compensation under any other Federal law and are not receiving compensation with respect to such week under the unemployment compensation law of the Virgin Islands or Canada. For purposes of the preceding sentence, an individual shall be deemed to have exhausted his rights to regular compensation under a State law (A) when no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period, or (B) when his rights to such compensation have terminated by reason of the expiration of the benefit year with respect to which such rights existed.

"(4) Any agreement under this title with a State or with the State agency administering the State law of such State shall provide that the terms and conditions of State law, except where inconsistent with the provisions of this title, which apply to claims for regular compensation and to the payment thereof shall apply to claims for extended compensation and to the payment thereof.

"(5) Any determination by a State agency with respect to entitlement to compensation pursuant to an agreement under this title shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law of such State, and only in such manner and to such extent."

On page 37, line 21, strike out "The State law" and insert "Any agreement under this title with a State or a State agency administering the State law of such State."

On page 38, line 5, strike out "such law" and insert "the State law".

On page 38, line 12, strike out "State law" and insert "agreement".

On page 38, line 15, strike out "such law" and insert "the State law".

On page 39, line 24, strike out "under the State law".

On page 39, line 25, insert "(as determined under the State law)" immediately after "benefit year".

On page 42, line 8, strike out "Determinations" and insert "Agreements entered into under this title shall provide that determinations".

On page 42, line 13, strike out "There" and insert "Agreements entered into under this title shall provide that there".

On page 42, line 14, strike out "one-half" and insert "100 percent".

On page 42, line 15, strike out "sharable" and insert "reimbursable".

On page 42, line 16, strike out "sharable" and insert "reimbursable".

On page 42, line 22, strike out "Sharable" and insert "Reimbursable".

One page 42, line 25, strike out "sharable" and insert "reimbursable".

On page 43, line 6, strike out "Sharable" and insert "Reimbursable".

On page 43, line 9, strike out "sharable" and insert "reimbursable".

On page 43, line 21, strike out "There" and insert "Agreements entered into under this title with a State or a State agency shall provide that there".

On page 44, line 9, insert "which is a party to an agreement entered into under this title".

On page 45, beginning on line 5, strike out "under those provisions of the State law which satisfy" and insert "in accordance with".

On page 46, strike out lines 5 through 12, and insert in lieu of the matter stricken the following:

"EXTENDED UNEMPLOYMENT COMPENSATION IN ABSENCE OF STATE AGREEMENT

"SEC. 206. (a) If an individual files a claim for extended compensation with respect to a State with which there is no agreement under this title which applies to the weeks of unemployment concerned, the Secretary, in accordance with regulations prescribed by him shall, to the maximum extent practicable, make payments to such individual in like manner, to the same extent, and under the same conditions, as payments of extended compensation would have been payable to such individual if such State had entered into an agreement with the Secretary under this title.

"(b) For the purpose of providing extended unemployment compensation to individuals described in subsection (a), the Secretary may utilize the personnel and facilities of such Federal and State agencies as he may find appropriate. The Secretary may delegate to officials of any such agencies any authority granted to him under this title whenever he determines such delegation to be necessary in carrying out the purposes of this title, and may pay or reimburse such agency for the total cost of extended unemployment compensation paid under this title and for expenses incurred in carrying out the purposes of this title.

"(c) Any individual referred to in subsection (a) whose claim for extended unemployment compensation has been denied shall be entitled to an opportunity for a fair hearing before an impartial tribunal in accordance with regulations prescribed by the Secretary. Any final determination by the Secretary with respect to entitlement to extended unemployment compensation under this section shall be subject to review by the courts in the same manner and to the same extent as is provided in section 205(g) of the Social Security Act with respect to final decisions of the Secretary of Health, Education, and Welfare under title II of such Act.

"(d) Expenses incurred in carrying out this section shall be paid from the extended unemployment compensation account."

Beginning on page 46, line 13, strike out all through page 47, line 25, and insert in lieu of the matter stricken the following:

"EFFECTIVE DATE

"SEC. 207. (a) The provisions of this title shall take effect upon enactment, but no extended compensation shall be payable pursuant to this title with respect to any week of unemployment which begins prior to the end of the 60-day period which commences on the date of enactment of this Act."

On page 48, line 26, strike out "'$4,200'" and insert in lieu thereof "'$4,800'".

On page 57, lines 4 and 5, strike out "before April 1972, to one-fifth, and in the case of any month after March 1972, to one-tenth," and insert ", to one-fifth,".

On page 58, line 3, strike out "$750,000,000" and insert "$1,500,000,000".

On page 58, line 6, strike out "one-eighth" and insert "one-fourth".

Mr. McCARTHY. Mr. President, the bill which is now before the Senate proposes that after 1972, 13 weeks of extended coverage be extended to all those who qualify under the terms of the act. The triggering procedure of the formula is already written into the bill which is before the Senate.

The administration spokesmen suggested we might want to do something about providing 13 weeks of extended coverage between now and 1972.

The committee bill provides that after 1972 the cost of the extended coverage will be borne 50 percent by the Federal Government and 50 percent by the State governments.

The argument was that we had to put this matter off for 2 years in order to give the States time to make changes in their laws and to make adjustments so they could finance their part of the cost, and that we might do the same at the Federal level.

In my judgment, if 13 weeks of extended coverage is necessary, and I thought it was in 1966, and long before that, when we passed emergency unemployment compensation bills, that we should apply the provision for 13 weeks extended coverage between 1970 and 1972.

My amendment does provide for such coverage. It provides, however, that beyond 1972 the 13-week extended coverage would continue to be paid for out of Federal funds without the States making any contribution.

The argument for the provision in the interim is the need for such payments by those who are unemployed during this period. But the more basic argument is that this kind of unemployment, when it runs on the average of more than 26 weeks, is unemployment which arises from sources outside the State and the economies of the States, and becomes reflective of the condition of the national economy. It reflects the failure on the part of the Federal economic policy or the Federal financial policy, so that consequently the cost of that extended program should be borne by the Federal Government as an unusual and special burden.

The amendment also provides for an increase in the base upon which the rate of unemployment tax is imposed in order to provide adequate funds to meet the cost of this extended benefit program. This is the substance of my amendment. It is not much different than we did in the emergency program which we passed in 1961 and in 1958. Whenever a critical unemployment situation arose, the administration came up and asked us to pass the emergency legislation. I hope we are not again on the verge of an emergency unemployment situation but there are threatening signs and it would be the better part of wisdom on the part of the Senate to anticipate these conditions and adopt this amendment establishing an extended benefit program by the enactment of this legislation and providing financing over this 2-year period and beyond. It seems to me that all the arguments of history and tradition in the past, and the immediate needs of the projection of this kind of program in the future argue for the adoption of this amendment. To raise the base to $4,800 with the rates proposed would be adequate to meet the scope of the anticipated program.

I have nothing further to say at this time and I reserve the remainder of my time.

Mr. WILLIAMS of Delaware. Mr. President, the committee considered this proposal and rejected it. It is true the administration first asked for 100 percent financing, but the Ways and Means Committee rejected this proposal in favor of 50–50 Federal-State matching.

If this amendment were agreed to I am sure it would jeopardize the bill. There was no bill in 1966 because the House refused to consider the various Senate amendments.

Even without this amendment a State could, on its own option, come under the extended benefit program before 1972. For example, if unemployment in that State rose above the level specified in the bill its legislature could act, and there would be 50 percent Federal matching funds before 1972, just as after 1972. In other words, the States do not have to wait until the bill is triggered on a national level at the 4.5-percent point of unemployment. If unemployment goes beyond that in any State the Governor and the State legislature could take action and trigger this in at any time they wish.

The McCarthy amendment also raises the taxable wages from $4,200 to $4,800, which is approximately a 15-percent increase in the tax base as compared to the committee bill. The committee bill has already gone pretty far in that respect by going from $3,000 to $4,200.

Also, this proposal under the McCarthy amendment was opposed by all employer groups testifying before the committee.

Mr. President, I hope this amendment is rejected so that we can be sure we will pass the remainder of the bill, which is very much needed.

Mr. McCARTHY. Mr. President, I cannot understand a position that after 1972 we are going to be concerned about the unemployed of this country, but not between 1970 and 1972. As far as the position of the employer groups is concerned, they have opposed almost every effort to improve the unemployment compensation program since it was first enacted 35 years ago.

These are really no new arguments. They are no new considerations. I cite the fact that back in 1961, the last time we acted on emergency unemployment compensation, we did provide for full

Federal financing. So it is in order for the Senate to consider it. We should not be intimidated on the basis of what the House has done to it in the past. It seems to me that the Senator from Delaware is suggesting preliminary surrender to the House.

The amendment he offered was rejected by the House in conference many times. Yet he did not get up here and say, "I will not offer my amendment because the House has rejected it." Now when another amendment is offered, he says we should not bother to do it because the House has rejected it in the past.

I do not expect any real consistency here, but I think for a period of 30 minutes we should have some consistency.

Mr. WILLIAMS of Delaware. Mr. President, I realize that consistency is a jewel of the Senate.

Mr. McCARTHY. It is a shortlived virtue, but I think for 30 minutes it should be maintained.

Mr. WILLIAMS of Delaware. When my amendment dealing with savings bonds was offered before it was passed by the Senate and accepted by the House. It was not put into effect by the administration because it was discretionary authority. This amendment is mandatory.

Under the pending bill it is not a question of waiting until 1972. Any State in the Union can trigger the provisions of this bill into effect any time the Governor or the legislature of a State wants to act after the unemployment rate in that State exceeds 4.5 percent. I cannot conceive that the Governor and the legislature would refuse to take care of the unemployed in their State and instead expect the Federal Government to force their action.

Mr. McCARTHY. It would be mandatory. The principle in the bill is extended from 1972 back to 1970, and this would make it possible to make the benefits available once the bill became effective, by providing for full Federal financing.

The other argument is that full Federal financing is still the most economical way to do it. Despite the condition of the Federal budget, to have a joint Federal-State extended benefit program is a more expensive way of meeting this cost than by having the Federal Government do it.

Mr. President, I have nothing further to say. I yield back my time on the amendment.

Mr. WILLIAMS of Delaware. I yield back my time on the amendment.

The PRESIDING OFFICER. All time on the amendment has been yielded back. The question is on agreeing to the amendment of the Senator from Minnesota. The yeas-and-nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. GRIFFIN (after having voted in the negative). On this vote, I have a live pair with the Senator from New York (Mr. JAVITS). If he were present and voting, he would vote "yea." I have already voted "nay." I withdraw my vote and state that if I were at liberty to vote I would vote "nay."

Mr. MANSFIELD. On this vote I have a pair with the Senator from Georgia (Mr. TALMADGE). If he were present and voting, he would vote "nay." I have already voted in the affirmative. I withdraw my vote and state that if I were at liberty to vote, I would vote "yea."

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi, (Mr. STENNIS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. YOUNG), are necessarily absent.

I further announce that the Senator from Tennessee (Mr. GORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), the Senator from Connecticut (Mr. RIBICOFF), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senators from Kentucky (Mr. COOK and Mr. COOPER), the Senator from California (Mr. MURPHY), and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The pair of the Senator from New York (Mr. JAVITS) has been previously announced.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

The result was announced—yeas 30, nays 45, as follows:

[No. 118 Leg.]

YEAS—30

Allen	Inouye	Muskie
Bayh	Jackson	Nelson
Byrd, W. Va.	Kennedy	Pastore
Case	McCarthy	Proxmire
Cranston	McGee	Randolph
Dodd	McGovern	Sparkman
Eagleton	Metcalf	Stevens
Gravel	Mondale	Symington
Hart	Montoya	Tydings
Hartke	Moss	Yarborough

NAYS—45

Aiken	Church	Fong
Allott	Cotton	Fulbright
Baker	Curtis	Goldwater
Bellmon	Dole	Gurney
Bible	Dominick	Hansen
Boggs	Eastland	Hatfield
Brooke	Ellender	Holland
Byrd, Va.	Ervin	Hollings
Cannon	Fannin	Hruska
Jordan, N.C.	Packwood	Smith, Ill.
Long	Pearson	Spong
Mathias	Prouty	Thurmond
McClellan	Schweiker	Tower
McIntyre	Scott	Williams, Del.
Miller	Smith, Maine	Young, N. Dak.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Griffin, against.
Mansfield, for.

NOT VOTING—23

Anderson	Hughes	Ribicoff
Bennett	Javits	Russell
Burdick	Jordan, Idaho	Saxbe
Cook	Magnuson	Stennis
Cooper	Mundt	Talmadge
Goodell	Murphy	Williams, N.J.
Gore	Pell	Young, Ohio
Harris	Percy	

So Mr. McCARTHY's amendment was rejected.

Mr. McCARTHY. Mr. President, I send to the desk an amendment and ask that it be read.

Mr. LONG. Mr. President, does the Senator desire that the yeas and nays be ordered?

Mr. McCARTHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. McCARTHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 7, line 15, strike out "3311" and insert in lieu thereof "3312".

On page 11, line 17, strike out "3311" and insert in lieu thereof "3312".

On page 36, between lines 10 and 11, insert the following:

PART E—BENEFIT REQUIREMENTS

Sec. 151. Certification and requirements.

(a) Chapter 23 of the Internal Revenue Code of 1954 is amended by inserting after section 3310 (added by section 131(b)(1) of this Act) the following new section:

"Sec. 3311. Benefit Requirements.

"(a) Certification.—On October 31, 1972, and October 31 of each calendar year thereafter, the Secretary of Labor shall certify to the Secretary each State whose law he finds is in accord with the requirements of subsection (c) and has been in accord with such requirements for substantially all of the 12-month period ending on such October 31 and that there has been substantial compliance with such State law requirements during such period. The Secretary of Labor shall not withhold his certification to the Secretary unless, after reasonable notice and opportunity for hearing to the State agency, he finds that the State law is not in accord with the requirements of subsection (c) or has not been in accord with such requirements for substantially all of the 12-month period ending on such October 31 or that there has been a failure to comply substantially with such State law requirements during such period. For any State which is not certified under this subsection on any October 31, the Secretary of Labor shall within 10 days thereafter notify the Secretary of the reduction in the credit allowable to taxpayers subject to the unemployment compensation law of such State pursuant to section 3302(c)(4).

"(b) Notice to Governor of Noncertification.—If at any time the Secretary of Labor has reason to believe that a State may not be certified under subsection (a) he shall promptly notify the Governor of such State.

"(c) Requirements.—

"(1) With respect to benefit years beginning on or after November 1, 1971—

"(A) the State law shall not require that an individual have more than 20 weeks of employment (or the equivalent as provided in subsection (4)) in the base period to qualify for unemployment compensation;

"(B) the State law shall provide for an individual with 39 weeks of employment (or the equivalent) in the base period, benefits in a benefit year equal to at least 26 times his weekly benefit amount;

"(C) the State law shall provide that the weekly benefit amount of any eligible individual for a week of total unemployment shall be (i) an amount equal to at least one-half of such individual's average weekly wage as determined by the State agency, or (ii) the State maximum weekly benefit amount (exclusive of allowances with respect to dependents) payable with respect to such week under such law, whichever is the lesser.

Any weekly benefit amount payable under a State law may be rounded to an even dollar amount in accordance with such State law.

"(2) The State maximum weekly benefit amount (exclusive of allowances with respect to dependents) shall be no less than 50 percent of the Statewide average weekly wage most recently computed before the beginning of any benefit year which begins after October 31, 1971.

"(3) In determining whether an individual has 20 weeks of employment, there must be counted as a week, any week in which the individual earned at least 25 percent of the Statewide average weekly wage.

"(4) For the purpose of subsection (c)(1)(A), the equivalent of 20 weeks of employment in a State which uses high-quarter wages is total base period wages equal to five times the Statewide average weekly wage, and either one and one-half times the individual's high-quarter earnings of forty times his weekly benefit amount, whichever is appropriate under State law; and for purposes of subsection (c)(1)(B), the equivalent of 39 weeks of employment is total base period wages equal to at least 78 times an individual's weekly benefit amount.

"(d) Definitions.—

"(1) 'benefit year' means a period as defined in State law except that it shall not exceed one year beginning subsequent to the end of an individual's base period.

"(2) 'base period' means a period as defined in State law but it shall be fifty-two consecutive weeks, one year, or four consecutive calendar quarters ending not earlier than six months prior to the beginning of an individual's benefit year.

"(3) 'high-quarter wages' means the amount of wages for services performed in employment covered under the State law paid to an individual in that quarter of his base period in which such wages were highest, irrespective of the limitation on the amount of wages subject to contributions under such State law.

"(4) 'individual's average weekly wage' means an amount computed equal to (A) one-thirteenth of an individual's high-quarter wages, in a State which bases eligibility on high-quarter wages paid in the base period or (B) in any other State, the amount obtained by dividing the total amount of wages (irrespective of the limitation on the amount of wages subject to contributions under the State law) paid to such individual during his base period by the number of weeks in which he performed services in employment covered under such law during such period.

"(5) 'Statewide average weekly wage' means the amount computed by the State agency at least once each year on the basis of the aggregate amount of wages, irrespective of the limitation on the amount of wages subject to contributions under such State law, reported by employers as paid for services covered under such State law during the first four of the last six completed calendar quarters prior to the effective date of the computation, divided by a figure representing fifty-two times the twelve-month average of the number of employees in the pay period which includes the twelfth day of each month during the same four calendar quarters, as reported by such employers."

(b) The table of sections for chapter 23 of such Code is amended by adding after the item relating to section 3310 (added by section 131(b)(1) of this Act) the following:

"Sec. 3311. Benefit Requirements."

Sec. 152. Limitation on Credit Against Tax.

(a) Section 3302(c) of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new paragraph (4) as follows:

"(4) If the unemployment compensation law of a State has not been certified for a twelve-month period ending on October 31 pursuant to section 3311(a), then the total credits (after applying subsections (a) and (b) and paragraphs (1), (2), and (3) of this subsection) otherwise allowable under this section for the taxable year in which such October 31 occurs in the case of a taxpayer subject to the unemployment compensation law of such State shall be reduced by the amount by which 2.7 percent exceeds the four-year benefit cost rate applicable to such State for such taxable year in accordance with the notification of the Secretary of Labor pursuant to section 3311(a)."

(b) Subsection (c)(3)(C)(1) of section 3302 of such Code is amended by substituting the term "4-year" for the term "5-year".

(C) Section 3302(d)(5) of such Code is amended to read as follows:

"(5) 4-Year Benefit Cost Rate.—For purposes of subsection (c)(4) and subparagraph (C) of subsection (c)(3), the 4-year benefit cost rate applicable to any State for any taxable year is that percentage obtained by dividing—

"(A) One-fourth of the total compensation paid under the State unemployment compensation law during the four-year period ending at the close of the first calendar year preceding such taxable year, by

"(B) The total of the remuneration subject to contributions under the State unemployment compensation law with respect to the first calendar year preceding such taxable year. 'Remuneration' for the purpose of this subparagraph shall include the amount of wages for services covered under the State law irrespective of the limitation of the amount of wages subject to contributions under such State law paid to an individual by an employer during any calendar year beginning with 1972, up to $4,300; for States for which it is necessary, the Secretary of Labor shall estimate the remuneration with respect to the calendar year preceding the taxable year."

On page 48, line 26, strike out the dollar figure appearing therein and insert in lieu thereof "$4,300".

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GRIFFIN. Mr. President, will the Senator from Minnesota yield so that I may ask the distinguished majority leader about the program?

Mr. McCARTHY. I yield to the Senator from Michigan.

LEGISLATIVE PROGRAM

Mr. GRIFFIN. I thank the Senator from Minnesota for yielding so that I may ask the distinguished majority leader if he can advise us what the program is for the rest of the day and the rest of the week.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MANSFIELD. I will be delighted to respond to the question of the acting majority leader and state that there will be at least one and very likely more rollcall votes on the pending bill.

I understand that the Senator from Minnesota (Mr. MONDALE) has an amendment. And there may be others.

The Senate should dispose of the pending business this afternoon.

Tomorrow the Senate will return to the consideration of the Carswell nomination, and vote at 1 p.m.

After that, it is the intention of the joint leadership to take up Calendar 761, Senate Joint Resolution 190, a joint resolution to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

Following the disposition of the resolution, it is the intention to take up the postal and Federal pay increase bill—again, tomorrow afternoon. That measure will be reported this afternoon.

On Thursday, the Senate will return to the unfinished business, which has been laid aside temporarily, Calendar No. 745, Senate Resolution 211, the so-called Brooke-Cooper resolution.

If we dispose of that this week, it is anticipated that next week we will turn to the consideration of Calendar No. 712, S. 1148, a bill to amend the Revised Organic Act of the Virgin Islands; Calendar No. 733, S. 721, a bill to safeguard the consumer by requiring greater standards of care in the issuance of unsolicited credit cards and by limiting the liability of consumers for the unauthorized use of credit cards, and for other purposes.

Then, the Senate will consider the Kennedy bill, Calendar No. 760, S. 2846, a bill to assist the States in developing a plan for the provision of comprehensive services to persons affected by mental retardation and other developmental disabilities originating in childhood; and the broadcasting bill, Calendar No. 747, S. 3637, a bill to amend section 315 of the Communications Act of 1934 with respect to equal time requirements for candidates for public office, and for other purposes.

Then we will proceed to Calendar No. 564, H.R. 9477, an act to provide for the disposition of judgment funds of the Confederated Tribes of the Umatilla Indian Reservation.

Mr. GRIFFIN. I think the Senate has enough to do.

Mr. MANSFIELD. Yes, indeed.

Mr. GRIFFIN. I thank the distinguished majority leader.

Mr. MANSFIELD. With this colloquy the Senate is on notice.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 2595) to amend the Agricultural Act of 1949 with regard to the use of dairy products, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

EMPLOYMENT SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 14705) to extend and improve the Federal-State unemployment program.

Mr. McCARTHY. Mr. President, this amendment establishes national standards for unemployment compensation benefits, essentially what the Senate adopted back in 1966.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. McCARTHY. Any Senators who were here before 1966 do not really have to listen, because I am sure they will remember what they did in 1966. Those who came in later might want to know what we did and what this amendment proposes to do.

In that year, the House passed a bill similar to the one before the Senate today, but containing no provision setting minimum Federal standards for State unemployment compensation benefits. The bill reported by the Finance Committee in 1966 required State programs to meet these minimum benefit standards in order for employers in the State to receive the full 2.7-percent Federal tax credit:

First, any worker would have to be eligible for benefits if he had 20 weeks of employment—or its equivalent in terms of wages—in the 1-year base period;

Second. Unemployment benefits would have to be equal to at least 50 percent of a worker's average wages, up to a maximum benefit of not less than 50 percent of the average wage in the State; and

Third. Any worker with 20 weeks of employment in the 1-year base period would have to be provided at least 26 weeks of unemployemnt benefits.

On the Senate floor, the third standard was changed to require States to provide at least 26 weeks of benefits to any worker with 39 (rather than 20) weeks of employment in the 1-year base period.

The amendment I offer today sets benefit standards similar to those which were passed by the Senate in 1966. Specifically, it would require State programs to meet these minimum benefit standards in order to receive the full 2.7-percent Federal tax credit:

First, any worker with 20 weeks of employment in the 1-year base period would have to be able to qualify for unemployment benefits.

Second, unemployment benefits would have to be equal to at least 50 percent of a worker's average wages, up to a maximum benefit of not less than 50 percent of the average wage in the State.

Third, any worker with 39 weeks of employment in the 1-year period would have to be able to qualify for at least 26 weeks of unemployment benefits.

This would result in some increase in benefits paid under extended benefits program and would require a slight increase in the taxable wage base. It would have to be raised from a base of $4,200 to $4,300, a minimum increase.

If anyone has any questions about the effect of the amendment on particular States, I can cite those effects. If there are no such questions, I state simply that it would have some effect on 30 States which at the present time are not paying their benefits equal to the national standard proposed in this amendment.

Mr. President, this amendment provides standards essentially the same as the Senate acted upon affirmatively in 1966. It seems to me that the arguments which were good then are even better now.

Mr. CURTIS. Mr. President, it would be my hope that this amendment would be rejected. It is perhaps the crucial issue in the entire legislation. The question is, Shall we have Federal standards in our unemployment compensation systems?

As the matter now stands, the unemployment compensation systems are State systems. They have worked well. In times of national emergency, Congress has acted to supplement our regular programs and it has been handled well. It has been a program which has existed—some of them—for 30 years. It has been a program close to the people. It can be adapted to the needs of an area or of a State. If we adopt Federal standards in one category, it is just a matter of time until we will have to have complete Federal standards.

Now I want to call attention to the fact that the States have made progress in raising their benefits.

In the years 1968 and 1969, 43 of the 52 jurisdictions having unemployment compensation laws increased their benefit levels. That is a pretty good record.

In the 2-year time just passed, 43 States have increased their benefit levels. Is that not an argument for nationalization of the unemployment compensation program?

Also, as to what the States have done, I invite the attention of the Senate to the fact that if we choose the years 1957 to 1959 as 100 percent, for measure, the average weekly benefit paid by States has increased 84 percent.

From the period 1954 to 1968, high wages have increased 74 percent and consumer prices 30 percent. Great progress has been made by the States in paying an adequate level and in moving ahead on it. There is no need for Federal standards. Federal standards, if adopted, will mean uniformity all over.

I might point out that if Federal standards are adopted as to the amount that must be paid, the Federal rule cannot be carried out unless they also adopt a Federal standard as to duration. It can further be obviated by a State unless the Federal Government imposes standards of eligibility. Thus, once we start a program of Federal standards, it is the beginning of the end of State unemployment compensation systems. It is the beginning of their total federalization.

Now the States are permitted and do respond to the needs of the times.

Eleven States—Alaska, Connecticut, District of Columbia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Nevada, Ohio, Rhode Island—currently provide for dependency allowances paid in addition to regular unemployment compensation. These allowances have the effect of paying extra amounts of benefits in recognition of the higher nondeferrable expenses of unemployed claimants with families. Four of these States—Illinois, Indiana, Michigan, Ohio—have a "variable maximum" form of dependency benefit. In these four States the extra amounts paid for dependents vary with the individual's earnings, while in the remaining seven a fixed amount is added to an individual's base benefit amount. Because Federal benefit standards generally call for a given benefit amount exclusive of allowances for dependents, such a standard effectively viscerates dependency allowance provisions in State laws.

Thus, this will be to their disadvantage in some States. Certainly we do not want, by the imposition of the Federal standards to lessen the benefits that are paid under some States; yet, that is what will happen if the McCarthy amendment is adopted.

Again I remind Senators that in the past 2 years, 43 of the 52 jurisdictions have raised their benefits. There is no way that we can enter into a program of Federal standards without going all the way and having Federal rules and laws covering every facet of it. It is a program that has worked well. There is no need for federalizing it. If we adopt this, and insist upon it, it will mean, perhaps, no unemployment compensation in this Congress or perhaps for some time. We will jeopardize the chance to extend unemployment compensation to a great number of people who will be benefited by the bill.

I submit that, in the brief discussion here on the floor, a case has not been made for complete federalization of unemployment compensation systems. That is what this will lead to. A case has not been made for failure on the part of the States. The contrary is true. Since the very beginning, they have moved forward. Many other States will follow.

I hope that the amendment will be rejected. It was considered by the Finance Committee and was rejected.

I urge support of the committee's position.

Mr. WILLIAMS of Delaware. Mr. President, in considering the unemployment insurance legislation, the Senate Finance Committee wisely rejected a proposal for Federal benefit standards. The determination as to the amount of benefits to be paid for a week of unemployment has, from the program's beginning, been left to the discretion of the individual State legislatures. Unless and until there is clear evidence that the State legislatures are willfully negligent in their exercise of that discretion, they should retain it.

Benefits are, of course, the heart of the unemployment compensation program, the reason for all the other provisions. Benefits should certainly be adequate. A general principle since the

program's inception has been that the benefit should generally represent half the wages it is replacing, subject to a maximum so that the highest paid members of the labor force will not receive an undue proportion of the program's resources.

In his unemployment insurance message to Congress last July, President Nixon stated that not more than 20 percent of the insured workers should have their benefits determined by the maximum rather than by their own wages. He also recommended that this goal be achieved by voluntary State action rather than by Federal compulsion.

Both the goal and the approach to achieving it are reasonable.

There are great differences between our States in those characteristics of covered workers which are relevant to the payment of benefits. Average wage levels differ, as does the distribution of wages above and below the average. Some States have much more seasonal patterns of employment and unemployment than others.

So long as the State has full responsibility for the determination of benefit amounts, it can reflect these State characteristics in its formula. A Federal standard applicable to all States cannot.

Currently, 22 States provide workers with 50 percent of their own wages up to a maximum weekly which represents 50 percent or more of the average weekly wage in covered employment.

In 1966, when this subject was last considered by the Senate, only 15 States provided 50 percent of individual wages up to 50 percent of the State average. At the other end of the scale, there were 17 States where the 1965 maximum was less than 40 percent of average wages, contrasted with only 10 States today.

Therefore, the Senate should not add Federal benefit requirements to this bill—and run the risk of the same kind of stalemate that occurred in 1966.

In his testimony before the Finance Committee, Secretary Shultz described various steps being taken by the Federal Department of Labor to improve State laws as necessary. These steps seem to be producing results. That being the case, Federal benefit standards should not be made a part of the pending legislation.

I hope the amendment will be rejected.

Mr. McCARTHY. Mr. President, repeating the argument, the fact is the present level of benefits is too low, because of State limitations on benefits, but this situation would be significantly improved by my amendment.

It is significant to note that most States already have benefit formulas providing benefits equal to at least 50 percent of a worker's average wages. However, all States place a limitation on weekly benefits, and it is this limitation that in 30 States prevents workers from actually receiving benefits half as large as their average wages. Thus in the last quarter of 1969, 47 percent of the unemployment benefit claimants in the Nation qualified for maximum amounts allowable under State laws.

This rather clearly indicates that for many employees, the unemployment insurance compensation is not related to their previous wages. So we ought to move forward to raise the level of benefits at least in this very limited way.

The bill provides at least four new Federal standards, with respect to the argument of the Senator from Nebraska that this would be a foot in the door and that if we were to accept one Federal standard we would accept them all.

Mr. President, that argument does not stand up on the record. We are accepting Federal standards in the bill reported by the committee.

What we are proposing is really very modest. It simply says that all States should meet certain standards insofar as unemployment compensation is concerned with reference to eligibility, duration, and level of benefits.

There is still great flexibility between one State and another or between one State and all other States. This does not take away flexibility whatsoever insofar as there are honest and genuine economic differences between States.

With reference to the argument of the Senator from Delaware, it is like saying that we need so much moisture, but that it is better to have it by rain than by irrigation.

Mr. President, I have been a Member of Congress for 22 years. I have seldom heard a Member get up and say that the payments we make to the wheat farmers in Nebraska ought to be different from those in another State. I have not heard them say that the mail carriers ought to be paid less in the rural areas than in the city areas. However, when we come to unemployment insurance compensation, they say that we cannot impose the same standards in different States.

We are not proposing a high standard, but a minimum standard. I think that these standards are clearly within reason and within the potential of the American economy to respond to.

I hope that the amendment will be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the role.

Mr. GRIFFIN (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from New York (Mr. JAVITS). If he were present and voting, he would vote "yea." I have voted "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Dakota (Mr. BURDICK), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. GORE), the Senator from Rhode Island (Mr. PELL) and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF) and the Senator from California (Mr. CRANSTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE), is detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. JORDAN) and the Senator from South Dakota (Mr. MUNDT) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The pair of the Senator from New York (Mr. JAVITS) has been previously announced.

If present and voting, the Senator from New York (Mr. GOODELL) would vote "yea."

The result was announced—yeas 29, nays 47, as follows:

[No. 119 Leg.]

YEAS—29

Bayh	Jackson	Moss
Byrd, W. Va.	Kennedy	Muskie
Case	Long	Nelson
Church	Mansfield	Pastore
Dodd	McCarthy	Proxmire
Eagleton	McGee	Randolph
Gravel	McGovern	Stevens
Hart	Metcalf	Symington
Hartke	Mondale	Yarborough
Inouye	Montoya	

NAYS—47

Aiken	Eastland	Miller
Allen	Ellender	Murphy
Allott	Ervin	Packwood
Baker	Fannin	Pearson
Bellmon	Fong	Prouty
Bible	Goldwater	Schweiker
Boggs	Gurney	Scott
Brooke	Hansen	Smith, Maine
Byrd, Va.	Hatfield	Smith, Ill.
Cannon	Holland	Sparkman
Cook	Hollings	Spong
Cooper	Hruska	Thurmond
Cotton	Jordan, N.C.	Tower
Curtis	Mathias	Williams, Del.
Dole	McClellan	Young, N. Dak.
Dominick	McIntyre	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Griffin, against.

NOT VOTING—23

Anderson	Hughes	Russell
Bennett	Javits	Saxbe
Burdick	Jordan, Idaho	Stennis
Cranston	Magnuson	Talmadge
Fulbright	Mundt	Tydings
Goodell	Pell	Williams, N.J.
Gore	Percy	Young, Ohio
Harris	Ribicoff	

So Mr. McCARTHY's amendment was rejected.

Mr. MILLER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CURTIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MONDALE obtained the floor.

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

Mr. MONDALE. I yield.

Mr. MANSFIELD. Mr. President, for the information of the Senate, there is going to be another rollcall vote very shortly. There may very well by a rollcall vote on final passage. I urge all Senators to stay close to the chamber.

Mr. MONDALE. Mr. President, I send to the desk an amendment and ask unanimous consent that its reading be dispensed with and that it be printed in the RECORD.

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

The amendment is as follows:

Beginning on page 4, line 24, strike out "(other than a crew leader as defined in section 3121(o))".

On page 5, strike out lines 15 through 18.

On page 5, line 19, strike out "(d)" and insert in lieu thereof "(c)".

On page 5, line 22, strike out "amendments" and insert in lieu thereof "amendment".

On page 5, line 23, strike out "and subsection (c)".

Mr. MONDALE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, I yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, I understand that the distinguished Senator from Minnesota has yielded to me to present an amendment, which I send forward at this time, and ask unanimous consent that his amendment be temporarily laid aside.

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

Mr. HOLLAND. Mr. President, I ask particularly the attention of the Senator from Louisiana and the Senator from Delaware, because I have discussed this matter with them.

The PRESIDING OFFICER. The amendment offered by the Senator from Florida will be stated.

The bill clerk read the amendment, as follows:

On page 4, line 24, immediately after "(k))" insert: "unless performed by an individual other than an alien admitted to the United States to perform agricultural labor pursuant to sections 214(c) and 101(a)(15)(11) of the Immigration and Nationality Act, and".

Mr. HOLLAND. Mr. President, the act referred to in the amendment is the act under which the Secretary of Labor can allow agricultural workers to be brought into the United States for temporary harvesting purposes.

The definition of "agricultural labor" in the bill is so broad as to apparently not exempt them, though they are aliens, and though they, at least in my State, would not be qualified to receive compensation benefits.

I understand from the Senators from Louisiana and Delaware that they agree there is no intent to include that type of labor within the purview of this act, and I have offered this amendment to make it clear that this type of labor would be excluded.

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

Mr. HOLLAND. I will, but let me make one more statement. This matter is important in my State, because, under the Secretary of Labor's orders, we have been allowing the import of about 9,000 workmen from the British West Indies to cut sugarcane every year. Americans will not do that kind of labor, on their knees, in the muck, with hand machetes. It would amount to a very considerable amount collected by way of taxes, but without workers being qualified to collect compensation payments.

I hope the amendment will be accepted.

Mr. LONG. Mr. President, this is a problem that the committee did not consider. The Senator from Florida directed the matter to our attention. We have looked into it. In my judgment and in the judgment of the senior Senator from Delaware (Mr. WILLIAMS), the amendment of the Senator from Florida is eminently justified. For the most part, these people would not be eligible to receive benefits. It serves no purpose to put a tax on their employer if no benefit is to flow from it.

On that basis, I would be willing to agree to the amendment, take it to conference, and see that it receives the consideration to which it is entitled.

I regret that we did not know about this matter when we considered the bill in executive session, but perhaps that is one of the losses we sustained when the Senator's former colleague, Senator Smathers, who was one of the ranking members of the Committee on Finance, decided to retire from the Senate, and thereafter there was no Senator from Florida on that panel.

With that knowledge, we will be willing to make the adjustment.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. HOLLAND. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I concur in the remarks of the chairman of the committee. Had this matter been called to the attention of our committee, we would have accepted it. I am perfectly willing to accept the amendment.

Mr. HOLLAND. I thank my distinguished friends. I ask for a vote on the amendment.

The PRESIDING OFFICER (Mr. BELLMON). The question is on agreeing to the amendment of the Senator from Florida.

The amendment was agreed to.

Several Senators addressed the Chair.

Mr. MONDALE. I yield to the Senator from Massachusetts.

STRATEGIC ARMS CONTROL

Mr. BROOKE. Mr. President, I ask unanimous consent that the name of the distinguished minority leader, the able senior Senator from Pennsylvania (Mr. SCOTT), be added as a cosponsor of Senate Resolution 211, seeking agreement with the Union of Soviet Socialist Republics on limiting offensive and defensive strategic weapons and the suspension of test flights of reentry vehicles.

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

Mr. BROOKE. I am especially pleased that Senator SCOTT is lending his valued support and leadership to this important initiative. Together with the welcome additions of the junior Senator from Kansas (Mr. DOLE) and the junior Senator from Pennsylvania (Mr. SCHWEIKER). Senator SCOTT's decision brings the total number of cosponsors of Senate Resolution 211 to 46. I know that the action of the minority leader will have special weight in this body, for he is known to have given the issue long and deliberate study.

It is particularly noteworthy that Senator SCOTT's action, coupled with the affirmative votes of several noncosponsors on the Foreign Relations Committee, provides a clear majority of the Senate who have announced publicly that they support this vital resolution. Thus, even before the final vote, which we hope will come shortly, a firm majority of Senators has expressed support for the resolution.

Tomorrow morning the National Security Council will resume preparations for the impending strategic arms limitation talks. It is most important that, as the President and Council convene, they will know that the Senate will support a bold initiative in these historic negotiations. The majority of the body, by endorsing Senate Resolution 211, has now made clear that they hope the President will propose a mutual suspension of further deployments of strategic offensive and defensive weapons by both the United States and the Soviet Union.

I trust that the President will give due consideration to this expression of Senate advice, and that the Soviet Union will be receptive to this constructive proposal. Enlightened leadership on both sides can enhance the mutual security on which the fate of us all depends. I commend the gracious minority leader for providing a clear Senate majority for a modest resolution devoted to this goal.

I thank the distinguished Senator from Minnesota (Mr. MONDALE) for yielding to me for this purpose.

EMPLOYMENT SECURITY AMENDMENTS OF 1970

The Senate continued with the consideration of the bill (H.R. 14705) to extend and improve the Federal-State unemployment program.

Mr. MONDALE. Mr. President, the amendment I have offered is cosponsored by the Senators from California (Mr. MURPHY and Mr. CRANSTON), the Senator from Oklahoma (Mr. HARRIS), the Senator from New York (Mr. JAVITS), the chairman of the Committee on Labor and Public Welfare (Mr. YARBOROUGH), and the Senator from Massachusetts (Mr. KENNEDY). It is designed to guarantee that migratory farm labor as well as other types of farm laborers will be included within the coverage of unemployment compensation.

I submitted a statement for the consideration of the Finance Committee urging inclusion of farmworkers under unemployment compensation program. I ask unanimous consent that it be inserted in the RECORD at this point in my remarks.

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

STATEMENT OF SENATOR WALTER F. MONDALE

Mr. Chairman and members of the Committee, I thank you for the opportunity to present testimony on H.R. 14705, the Employment Security Amendments of 1969. I urge that this bill be amended by extending coverage to farmworkers.

Farmworkers are now excluded from our Nation's unemployment compensation scheme. They are similarly excluded, or at best only minimally included, in practically every major piece of social and worker benefit legislation that we have ever enacted into law. Congress created, and has perpetuated, a system that treats farmworkers as second class citizens with respect to legal protections most Americans take for granted:

Sometime in the second half of 1970, a State employment security agency will pay a worker who has become unemployed the 50 billionth dollar in unemployment insurance benefits which have been paid since the unemployment insurance payments began in 1936. Farmworkers have not received a single penny of the $50 billion.

In 1969 alone, more than 4 million persons received over 2 billion dollars in unemployment insurance payments, but no farmworkers received benefits in 1969.

Workers in some 58 million jobs, 77 percent of all jobs in the United States, are protected by an unemployment insurance program against total loss of wages during spells of unemployment. H.R. 14705 would cover 4.5 million additional jobs, bringing the total coverage to 84 percent of all jobs. Another 10 percent of all jobs are uncovered State and local government jobs. Every major job classification in private industry is covered by unemployment insurance, except farmwork. But, farmworkers remain excluded.

Regrettably, the House Bill before you perpetuates the exclusion of 1.3 million jobs in agriculture. Clearly, the exclusion of certain workers from a program in which the preponderance of their fellow workers share, is inequitable, discriminatory, unjustified, and a contradiction of this Nation's commitment to justice and dignity.

There is presently no rational basis for the continued exclusion of farmworkers. The history of administration of this universal social insurance program demonstrates that previously raised objections have no merit. At one time this admitted inequity was justified on the theory that farm employers would have difficulty in maintaining records and filing reports. But this has evaporated in the face of reporting requirements pursuant to Social Security legislation and the Fair Labor Standards Act. Where coverage under that legislation exists, administrative burdens have not been cited as preventing adequate administration of the law.

Also, some contended that exhorbitant costs made coverage impossible, and at best justified more studies and research. We now have the studies and research into the cost of farmworker coverage to farm employers and the State unemployment insurance funds. As early as ten years ago research was completed showing costs which at the highest are not particularly greater than in other industries, and some of the studies indicated costs that are far less than those experienced by many other industries. In fact, it has been argued, coverage under this act may save the farmer money by increasing the stability of the work force and reducing the costs of recruitment and turnover.

The purpose of unemployment compensation is to provide an orderly method of offsetting the effects of unemployment to the individual and the community. It enables nondeferable living expenses to be met without having the recipient rely on meager savings or community welfare or charity; consumer purchasing power is preserved. Since benefits are paid by State unemployment agencies, the unemployment insurance system keeps the unemployed in touch with job opportunities.

The migrant agricultural worker clearly needs the benefit of a program directed toward these objectives. Most often the migrant worker is unemployed through no fault of his own; weather, crop conditions, oversupply of labor created through faulty recruiting and market information difficulties, and crop mechanization that creates geographical gaps in work opportunities.

My proposal is not a partisan effort. Members of both parties have supported coverage for farmworkers. President Nixon urged limited farmworker coverage in his Message to the Congress of July 8, 1969. Senator George Murphy, a member of the Migratory Labor Subcommittee, has recommended coverage. The ranking Republican a .d Democrat members of the House Ways and Means Committee argued, in vain, for coverage in Committee sessions. Governor Ronald Reagan of California has appealed to the Congress to extend unemployment insurance coverage to full-time farmworkers, and Secretary of Labor Shultz spoke strongly for large farm employer coverage in his testimony before you earlier this month. I hope this progressive, bipartisan commitment to justice for farmworkers will be extended to other fields.

Finally, Mr. Chairman, and members of this distinguished Committee, I say "Let's do it". Let's not leave ourselves in the irrational position of having again to say to the people that work so hard to harvest our crops, that "we are going to perpetuate your second class citizenship". Let's not even put ourselves in a position of going only part way by extending coverage to only a few farmworkers.

Let's not perpetuate the second class treatment of our fellow Americans. Our Nation is rich and bountiful in promise and potential. No great sacrifice is involved in granting full unemployment insurance coverage to farmworkers. Let's do it.

Mr. MONDALE. The committee version of the pending bill extends unemployment insurance protection to farmworkers where an employer has eight or more workers for 26 weeks. However, the bill also exempts workers who are working under a crew leader by excluding crew leaders from the newly recommended definition of farm employers. Many migratory farm laborers work under a crew leader. Moreover, in my judgment, if the committee bill language is accepted, those workers who do not now have crew leaders will either be required to quickly get them, or will be assigned crew leaders. This may serve to exempt a substantial segment of farmworkers from the unemployment compensation coverage recommended by the committee in order that farm employers could avoid the tax required to fund the unemployment compensation program.

This amendment that I now propose is a modest and conservative one. It does not extend the coverage for migratory labor beyond the limits otherwise recommended by the committee for farm labor. This bill is a modest proposal that will cover roughly only about 20 percent of farm labor, and only 2 percent of this Nation's farms, which are the larger concerns. By extending coverage to farmworkers, the bill is a first step to extend unemployment compensation to the poorest segment of the American working force; namely, farmworkers and migratory workers.

Mr. President, this amendment enjoys bipartisan support. It is supported by the Secretary of Labor. Its provisions have even been supported by Governor Reagan of California and others who, I think quite rightly, join in the basic assumption that of all workers, the migrants are the most poorly treated in American life.

Ten years ago, there was a moving documentary film called "Harvest of Shame."

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

Mr. MONDALE. I am happy to yield to the Senator from California.

Mr. MURPHY. I joined with the Senator from Minnesota as a cosponsor of this amendment. Unfortunately, in many States, migratory labor is badly treated. I point out that that is not so in the State of California. I would also point out to my distinguished colleague that some of the documentary movies which have been made leave a great deal to be desired in treatment of the facts and the truth of the matter.

However, in dealing with this particular segment of labor, there is no question in my mind, nor in Governor Reagan's mind, that these people should be included, and I am pleased to join with my distinguished colleague from Minnesota in this amendment, which I think at long last will help this particular group which are so important to the agriculture business, not only in California but in 28 other States in the Union.

Under the definition and under the language of the amendment, as my colleague has pointed out, it will affect only about 20 percent of the some 230,000 of these migratory laborers who are so important. I enthusiastically endorse the amendment, and urge my colleagues to heed the voice of one who has been studying this problem for many years—about 30 years—and says that this is a good amendment, and a step in the right direction. It extends aid to people who have needed it for a long time, and who I am glad to say receive it under the State provisions of the State of California.

I thank my distinguished colleague.

Mr. MONDALE. Mr. President, I am ready to go to a vote on this amendment. But first, I am happy to yield to my senior colleague from Minnesota.

Mr. McCARTHY. Mr. President, I think it is important to note that the bill without this amendment leaves the way open for genuine abuse, even with reference to those agricultural workers we are trying to cover; simply by the device of appointing a crew leader, the whole thrust of the legislation, which would extend coverage at least in a limited way to agricultural workers might be entirely frustrated.

Mr. MONDALE. The Senator is absolutely correct. As a matter of fact, this legislation appears to provide a financial incentive to the farmer who might require crew leaders for all farmworkers who do not now have them. Under the committee bill, there is no additional expense connected with the compensation of employees of a crew leader. The bill, without my amendment, simply avoids

any coverage whatsoever for employees of crew leaders, and by a ruse farm employers might avoid all farmworker coverage.

Mr. McCARTHY. We might even exclude some already covered, and some we seek to cover in this legislation.

I think if we were to do that, by exempting those with crew leaders, it would set a very bad precedent that farmworkers and those who live by the land are somehow second-class citizens, and should not be subject to coverage or protection as far as the operation of the law is concerned.

I support the amendment of my colleague from Minnesota.

Mr. MONDALE. I thank my senior colleague for his support. Perhaps more than any other Member of the Senate, he has specialized in efforts to reform, modernize, and make more meaningful the unemployment compensation laws of this country.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Mr. WILLIAMS of Delaware. Mr. President, the committee bill would exclude the employees of a crew leader from coverage under Federal law, even if the crew leader had eight or more employees in at least 26 weeks. The committee feels that administrative and cost experience should be gained from the coverage of agricultural business before coverage of additional agricultural employees is considered. Coverage of migratory labor might present administrative and cost problems which it would be preferable to avoid in this initial extension of coverage to agricultural employment.

The committee bill already extends the coverage to 233,000 agricultural workers. The committee felt in the case of migratory labor that we were not sure just how it would work. For example, these migratory workers would be working for a few months, say, in Florida and a few months later they may be in Georgia or North Carolina, and later would be working up the coast. They would work in six or eight States. They might pay taxes in those States, but when the workers were to draw benefits, from which State would they get the benefits? This is one reason why we felt that the committee and the administration needed to study the problem a little more before we could perfect legislation, and for that reason we rejected it at this time, with the understanding that the administration was going to study this matter further and try to come back with a solution as to how it actually could be applied. Frankly, the committee does not understand how it could be applied at the present.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. I think the people who are interested in migratory labor should be commended, but we are faced with some real problems here. Our unemployment systems are State systems.

The last rollcall vote reaffirmed, as the distinguished Senator from Delaware has pointed out, that part of the services are performed in one State, then they go to another State and gather fruit or vegetables or perform whatever labor is necessary, and then on to the third State. Who carries the cost of unemployment compensation?

Many problems need to be worked out—administrative problems—and it requires careful study and should be presented to a committee so that they could call in some witnesses and make sure that what is proposed is the most practical way to do it.

While the amendment is well intentioned, I feel that it should not be adopted because of the administrative problems.

Mr. WILLIAMS of Delaware. I concur in what the Senator from Nebraska has said.

I do not argue on this amendment on its merits. A good argument could be made as to the merits. I do not question for a moment the sincerity of those who sponsor the amendment, and they certainly have a problem. Frankly, it is a problem to which our committee did not have a solution. We do not have it now, and we do not know how we can make it work. That is why I say we have to oppose taking this step at this time.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. LONG. As the Senator knows, in this bill we make the first effort to extend coverage to agricultural labor. We extend coverage in this bill to 2 percent of agricultural employers, but we reach almost one-fifth of agricultural labor. In doing so, we proceed with those in the agriculture business whose activities most closely approximate the way a business is conducted. We cover the larger agricultural operations, and we think that this coverage is feasible and administratively possible. We will gain a great deal of experience with that, to see how further we can extend coverage to what extent we should extend it to others.

We say in the committee bill that where one has eight employees and they work for him as much as 26 weeks, those people are covered. We did not try to cover migratory workers. We thought it would be very difficult and complicated and would create all sorts of administrative difficulties.

This amendment would create much more complexity and much more difficulty of administration. There are other ways we could broaden coverage of agricultural labor under this bill, beyond that which is covered under the committee bill. For example, it would be much easier to reduce the number of employees from eight to six, or to reduce the number of weeks from 26 to 20, and cover many more people.

These people migrate from one State to another. In some cases they might be in a State for a number of weeks, and if you try to collect the tax in one State so that benefits can be paid, you would have to trace the person from State to State to determine one's entitlement. The crew leaders, after all, are migrants themselves, moving from place to place. They are poorly qualified to keep records on those who work under their supervision.

For these reasons, we do not think that this is where we should start with covering agricultural labor. In this bill we make a reasonable start.

The House did not cover any agricultural labor. They just left them out. We will be doing well in conference to persuade the House to accept what the committee has agreed to, without trying to get the House conferees to go along with something that presents serious administrative problems.

It seems to me that we have made the right start in the right area with agricultural labor, and that the committee bill would extend coverage where it is most feasible and can be best administered. Then, having had some experience, we can consider this problem later. Otherwise, we may find that while we have covered 30,000 migrant laborers, because of the administrative hurdles involved, we have put a tax on their employment without them being able to benefit.

Mr. WILLIAMS of Delaware. That is what we were afraid of in committee. Nothing in the House bill dealt with agricultural labor. The committee bill extends it to 233,000 agricultural workers. We were fearful that if we included migratory labor, in a measure which we did not know how to administer, and we could not suggest how it could be administered—the administration was unable to tell us how it could be administered—we would lose the whole package.

That is the reason why we were afraid to put this in at this time, and why we are afraid to accept it now.

Mr. LONG. The Senator has made a good point, and it should be kept in mind: This is virtually the same bill that died in conference 4 years ago. The Senate put a lot of ambitious amendments in that bill in the 89th Congress, and the Senate was determined in that matter, but the House simply stood fast and nothing happened.

I would hope that we would take pride in sending to conference a bill that would extend uemployment compensation insurance coverage to up to 4.4 million additional workers, and not jeopardize the bill with this amendment, which we believe would present an enormous administrative problem in extending coverage to some 40,000 workers. In my judgment, we probably could not work it out in conference, anyway.

I hope we would get on with this bill and extend coverage to the 4.4 million people who have been denied it altogether too long, and not tie up this bill in a deadlock between the House and the Senate in conference.

Mr. WILLIAMS of Delaware. I support the argument of the chairman. I hope that this amendment will be withdrawn, with the promise on the part of the chairman and myself and other members of the committee that we are sympathetic to the problem and that we would give it careful study and try to see if we could work out a solution. Perhaps it could be done and incorporated at a later date.

As I said before, frankly, in commit-

tee we objected to this not on its merits, but just on the basis that we did not know how it would work. These migrant workers will be working in four or five States during the year, and if their employers contribute to the unemployment fund of four or five States, which State is going to pay the unemployment compensation? And if they have different rates of unemployment compensation in the different States, under what basis will it be paid?

It is a mathematical problem which we did not know how to solve, and that is why we hope the amendment will not be accepted at this time.

Mr. LONG. I voted for the McCarthy amendment, but the Senate voted that down by a 2-to-1 margin. If we had Federal standards, perhaps the States would better be able to administer what the Senator seeks to do with this amendment about crew leaders and their labor. Without any type of Federal standards, there is a lack of uniformity which can present a virtual administrative impossibility, in the mind of this Senator.

Mr. ALLOTT. Mr. President, I should like to ask the Senator from Minnesota a couple of questions about his amendment since I have not had a previous chance to study it. I feel that it might be helpful to clarify the RECORD on one or two points.

First, is the bill now before the Senate presently applicable to the territories and if so, which ones?

Mr. MONDALE. I would ask the chairman of the Finance Committee, the Senator from Louisiana, to respond to that question. I would say it is not applicable.

Mr. ALLOTT. Let me say that I have just inquired privately of the Senator from Louisiana, chairman of the committee, and he says that it is not applicable to any of the territories. I am sympathetic to the concerns of the distinguished Senators from California and Minnesota, although I shall not support it for the reasons which the chairman and the ranking member of the committee have stated.

Mr. President, the reason for my question about the applicability of the Territories is because of the alien labor situation in the Virgin Islands. There are approximately 15,000 noncitizen workers employed in the Virgin Islands. Those of us on the Interior and Insular Affairs Committee have tried to find some remedies to this situation. The main support for services now in the Virgin Islands, however, comes out mostly from the British Virgin Islands and other British islands around there, and from some of the French islands.

The Senator can see that I would be very much concerned about the amendment if it did apply to those aliens and noncitizens where employers would be paying the employment tax for those noncitizens.

Since I have been assured that this does not apply to the Virgin Islands, nor to the other territories in which the situation prevails, the problem does not apply. However, I wanted to be sure, in case the amendment should pass, that it did not apply to our territories or to the aliens who work in them.

Mr. LONG. I might say to the Senator that I believe the amendment offered by the distinguished senior Senator from Florida and accepted by the Senate just before the Senator from Colorado entered the Chamber should completely clarify the matter. It excludes this sort of alien labor from the coverage provided by the committee bill.

The PRESIDING OFFICER (Mr. GRAVEL). The question is on agreeing to the amendment of the Senator from Minnesota.

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 Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Ohio (Mr. YOUNG), the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. HARRIS), the Senator from Mississippi (Mr. STENNIS), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. GORE), the Senator from Rhode Island (Mr. PELL) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Ohio (Mr. SAXBE) is detained on official business.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from Utah (Mr. BENNETT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from Utah would vote "nay."

On this vote, the Senator from New York (Mr. JAVITS) is paired with the Senator from Idaho (Mr. JORDAN). If present and voting, the Senator from New York would vote "yea" and the Senator from Idaho would vote "nay."

On this vote, the Senator from New York (Mr. GOODELL) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from New York would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 42, nays 36, as follows:

[No. 120 Leg.]

YEAS—42

Aiken	Hart	Montoya
Baker	Hartke	Moss
Brooke	Hatfield	Murphy
Byrd, W. Va.	Hollings	Muskie
Case	Inouye	Nelson
Church	Jackson	Pastore
Cook	Kennedy	Pearson
Cooper	Mansfield	Prouty
Cranston	McCarthy	Proxmire
Dodd	McGee	Randolph
Dole	McGovern	Schweiker
Eagleton	McIntyre	Stevens
Gravel	Metcalf	Symington
Griffin	Mondale	Yarborough

NAYS—36

Allen	Ervin	McClellan
Allott	Fannin	Miller
Bellmon	Fong	Packwood
Bible	Fulbright	Scott
Boggs	Goldwater	Smith, Maine
Byrd, Va.	Gurney	Smith, Ill.
Cannon	Hansen	Sparkman
Cotton	Holland	Spong
Curtis	Hruska	Thurmond
Dominick	Jordan, N.C.	Tower
Eastland	Long	Williams, Del.
Ellender	Mathias	Young, N. Dak.

NOT VOTING—22

Anderson	Javits	Saxbe
Bayh	Jordan, Idaho	Stennis
Bennett	Magnuson	Talmadge
Burdick	Mundt	Tydings
Goodell	Pell	Williams, N.J.
Gore	Percy	Young, Ohio
Harris	Ribicoff	
Hughes	Russell	

So Mr. MONDALE's amendment was agreed to.

Mr. YARBOROUGH. Mr. President, we have before us today for consideration the most significant bill pertaining to unemployment compensation since the program was originally enacted in 1935. Since it was first enacted, unemployment compensation has provided income for millions of American workers during periods of unemployment; however, there are presently over 16 million jobs that are unprotected by either State or Federal unemployment compensation. The bill before us today would extend coverage to 4.4 million of these jobs.

Among the workers who will be covered by this bill are agricultural workers who are employed by farms having eight or more employees. It is estimated that 233,000 farm jobs will now be protected by unemployment compensation. This represents a major breakthrough in the area of agricultural labor.

In addition to agricultural labor, the bill extends coverage to the employees of nonprofit organizations, State hospitals, and State institutions of higher learning. These employees have previously been excluded from unemployment compensation and by virtue of this bill, approximately 3.2 million jobs would now be covered.

Under this bill, unemployment compensation coverage is extended to U.S. citizens employed outside the United States by American employers. This means that approximately 160,000 jobs previously unprotected will now be covered. Furthermore, this bill would require States to extend to each political subdivision of the State the right to cover employees of county and municipal hospitals and institutions of higher learning. Under this provision, approximately 436,000 county and municipal employees could become eligible for unemployment compensation.

I wish to commend the distinguished

chairman of the Senate Finance Committee, Senator LONG, and the other members of this committee, for their excellent work in producing this measure. This bill represents an excellent example of what Congress can do to ease the burden of our people. I urge all of my colleagues to give this measure their fullest support.

Mr. BYRD of West Virginia. Mr. President, I am glad to support H.R. 14705, a bill which would extend and improve the Federal-State unemployment compensation program. This legislation represents the most significant improvements in the unemployment compensation program since it was enacted during the 1930's as part of the Social Security Act.

I supported this meritorious legislation in 1966, when this matter was last considered. It was unfortunate that, at that time, the House and Senate conferees could not resolve their differences and send to the President, for his signature, this needed legislation. It is my hope that the conferees will be able to speedily resolve any of the current differences.

Mr. President, this bill is the product of one of the most intensive reviews of the unemployment compensation program since its enactment. I commend the distinguished chairman of the Committee on Finance, Mr. LONG, and the members of his committee, for presenting to the Senate legislation which will go a long way toward making the Federal-State unemployment compensation system more responsive to the needs of present-day workers. The value of this program has been demonstrated by experience.

Today, approximately 58 million jobs, including those of Federal employees, ex-servicemen, and railroad workers, are now protected by the unemployment compensation system. This bill will extend coverage up to an additional 4.4 million jobs. It will provide additional American workers with insurance against economic disaster due to the loss of employment. The program—providing payments to the unemployed as it does—provides the additional benefit of stabilizing the economy to guard against recession.

Mr. President, it is important that in a program such as this one, which provides billions of dollars in benefits, abuses by the recipients be carefully watched and prohibited. This legislation will strengthen and tighten the administration of the unemployment compensation program. It will provide guidelines that will make certain that the idle unemployed are genuinely unemployed. It will protect those workers who have earned its benefits.

I am glad that this legislation goes further than the House bill in providing additional coverage to faculty, research, and administrative employees of institutions of higher learning. It would also require States to permit employees of a county or municipal hospital or institution of higher education to be covered at the option of the governmental unit, which would make payments in lieu of taxes. This legislation would remedy the inequity which now exists that prevents the hardworking employee of a nonprofit hospital from receiving the same benefits of his colleague in the profit-making hospital.

Among other significant provisions of this bill, it will establish a permanent program of extended benefits for people who exhaust their regular State benefits during periods of high employment. It will provide States, with a needed procedure for obtaining independent and impartial judicial review of adverse determinations by the Secretary of Labor, when threatened with the loss of certification of their State program. Improvements in the financing of the program have been added.

Mr. President, basically what this bill does is to provide the needed legislation in further protecting our workers with insurance from economic disaster due to the loss of employment, and through this to stabilize the economy to guard against recessions. I intend to support this effort.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays having been ordered, 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 Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that the Senator from Tennessee (Mr. GORE), the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from New Mexico (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from North Dakota Mr. BURDICK), the Senator from Tennessee (Mr. GORE), the Senator from Oklahoma (Mr. HARRIS), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), the Senator from Maryland (Mr. TYDINGS), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Ohio (Mr. YOUNG) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Utah (Mr. BENNETT) is absent on official business as observer at the meeting of the Asian Development Bank in Korea.

The Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senators from New York (Mr. GOODELL and Mr. JAVITS), the Senator from Idaho (Mr. JORDAN), the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 77, nays 0, as follows:

[No. 121 Leg.]

YEAS—77

Aiken	Fong	Mondale
Allen	Fulbright	Montoya
Allott	Gravel	Moss
Baker	Griffin	Murphy
Bellmon	Gurney	Muskie
Bible	Hansen	Nelson
Boggs	Hart	Packwood
Brooke	Hartke	Pastore
Byrd, Va.	Hatfield	Pearson
Byrd, W. Va.	Holland	Prouty
Cannon	Hollings	Proxmire
Case	Hruska	Randolph
Church	Inouye	Schweiker
Cook	Jackson	Scott
Cooper	Jordan, N.C.	Smith, Maine
Cotton	Kennedy	Smith, Ill.
Cranston	Long	Sparkman
Curtis	Mansfield	Spong
Dodd	Mathias	Stevens
Dole	McCarthy	Symington
Dominick	McClellan	Thurmond
Eagleton	McGee	Tower
Eastland	McGovern	Williams, Del.
Ellender	McIntyre	Yarborough
Ervin	Metcalf	Young, N. Dak.
Fannin	Miller	

NAYS—0

NOT VOTING—23

Anderson	Hughes	Russell
Bayh	Javits	Saxbe
Bennett	Jordan, Idaho	Stennis
Burdick	Magnuson	Talmadge
Goldwater	Mundt	Tydings
Goodell	Pell	Williams, N.J.
Gore	Percy	Young, Ohio
Harris	Ribicoff	

So the bill (H.R. 14705) was passed.

Mr. LONG. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. MANSFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that in the engrossment of the bill the Secretary of the Senate be authorized to make necessary technical and conforming changes, particularly with regard to the Holland amendment which was agreed to on the floor.

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

Mr. LONG. Mr. President, I further ask unanimous consent that the bill be printed as passed with amendments of the Senate numbered.

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

Mr. LONG. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. LONG, Mr. GORE, Mr. TALMADGE, Mr. WILLIAMS of Delaware, and Mr. BENNETT conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, passage of the unemployment compensation measure is a fine tribute to the distingushed Senator from Louisiana (Mr. LONG), the able chairman of the Committee on Finance. His clear and persuasive presentation of the bill was essential to its swift and unanimous approval by the Senate. He is to be highly commended for this achievement.

Joining the able chairman was the distinguished senior Senator from Delaware (Mr. WILLIAMS). His splendid cooperation and assistance enabled the efficient disposition of the measure. It was characteristic of his many years of public service.

Notable also were the contributions of the distinguished senior Senator from Minnesota (Mr. MCCARTHY) and his able and distinguished colleague (Mr. MONDALE). Their comments, their views, and the amendments they proposed added immensely to the discussion and to the high caliber of consideration enjoyed on this measure.

I am grateful to the entire Senate for the cooperation of all Members on the legislative program today.

LABOR DISPUTE BETWEEN CERTAIN RAILROAD CARRIERS AND CERTAIN OF THEIR EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 761, Senate Joint Resolution 190.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A joint resolution (S.J. Res. 190) to provide for the settlement of the labor dispute between certain carriers by railroad and certain of their employees.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. MANSFIELD. Mr. President, there will be no action on this joint resolution tonight, but it will be the pending business after the conclusion of the vote on the Carswell nomination tomorrow. This measure, in turn, will be followed by the postal and Federal pay raise bill. So we have a pretty heavy schedule for tomorrow.

SUPREME COURT OF THE UNITED STATES—ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Am I correct in assuming that there is an order entered for the Senate to convene at 10 o'clock tomorrow morning?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Has the time been equally divided for those 3 hours?

The PRESIDING OFFICER. That has not been done.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be divided on the same basis—equally between the distinguished Senator from Nebraska (Mr. HRUSKA) and the distinguishd Senator from Indiana (Mr. BAYH).

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

ORDER FOR RECESS IN EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate recesses tonight, it recess in executive session.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, there will be no morning business tomorrow until sometime late in the afternoon; and, after the prayer, we will go directly into the Carswell nomination.

Mr. President, I ask unanimous consent that Senate Resolution 211 be laid aside temporarily.

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

S. 3689—INTRODUCTION OF AN IMPROVED COLD WAR GI BILL TO ESTABLISH A NEW LOAN PROGRAM TO ASSIST VETERANS IN OBTAINING A PRIVATE PILOT'S LICENSE AND TO ESTABLISH AN IMPROVED VETERANS FARM COOPERATIVE TRAINING PROGRAM

Mr. YARBOROUGH. Mr. President, I send to the desk for appropriate reference a bill which would amend the cold war GI bill by making workable and viable two veterans programs, which are now provided for in part but not as adequately as other educational provisions in the GI bill. This bill would establish a modified improved veterans farm cooperative training program and would create a new loan program which would assist veterans who are interested in flight training to obtain a private pilot's license.

VETERANS FARM COOPERATIVE TRAINING PROGRAM

Experience during the last few years has clearly demonstrated that the present veterans farm training program has failed to encourage young veterans to pursue a career in farming. Since the enactment of the present program in 1967, only approximately 400 veterans have taken farm training in contrast to 785,000 veterans who participated in the farm training programs provided under the World War II and Korean conflict GI bill.

The causes of the poor participation by veterans in farm training are: First, the low allowance rates, and second, the unrealistic requirements of the present program. With the passage this year of H.R. 11959, as amended by the Senate, Congress made substantial progress toward eliminating the first cause by raising the allowance rates by 35 percent. However, this is only a partial solution. For this program to be successful, it is essential that the farm training program be revised to meet the needs of the young veteran who is struggling to start his farm and support his family. The present farm training program does not meet these needs.

The most objectionable feature of the present farm training program is that it puts too much emphasis on classroom work and not enough on actual on-the-farm training. Under the present program, a veteran is required to take a minimum of 12 classroom hours of instruction each week for 44 weeks of any 12-month period. There is no provision for on-the-farm training. It is almost impossible for a veteran who is trying to work and support his family to carry this heavy a weekly classroom workload.

On April 29, 1969, I introduced a bill, S. 1998, which was intended to revise the farm training by substituting for the present program a new program similar to one created by the Korean conflict GI bill. Instead of emphasizing only classroom work, my bill would have created a balanced program with particular emphasis on individual on-the-farm instruction. The bill I introduce today, which is essentially the same as S. 1998, contains the following significant features:

First, the classroom instruction requirement is lowered to a minimum of 200 hours per year, with a minimum of 8 classroom hours each month;

Second, the individual on-the-farm instruction which was a major part of the farm training program under the Korean conflict GI bill is reinstated. The bill would require not less than 100 hours of individual instruction each year, at least 50 hours of such shall actually be on the farm; and

Third, it eliminates the onerous requirement of the Korean program that the veterans own or control a farm to take the training.

The Subcommittee on Veterans Affairs of the Labor and Public Welfare Committee held thorough hearings on S. 1998 during June and August of 1969. During these hearings, testimony in favor of S. 1998 was presented by such respected farm organizations as the National Farmers Union, the National Grange, and the Minnesota Farmers Union. S. 1998 also was supported by the American Vocational Association which is composed of 10,000 agricultural education specialists. The evidence presented to the subcommittee clearly pointed out that: first, there is a need for this program as a means of training replacements for those farmers who have died, retired or quite farming; second, there

are many veterans who would like to take this training if the requirements were more realistic; and third, the burdensome classroom requirements not only discourage veterans from taking the training but severely hinder the State education agencies from establishing farm training programs.

Mr. C. W. Dalbey, State supervisor of agricultural education, Iowa State Department of Public Instruction, who testified on behalf of the American Vocational Association, pointed out the flaws in the present program and its impact on veterans who might want to take farm training by saying:

> The present requirement of 12 hours per week of classroom work with no requirement of on-farm supervision is impractical. The average young man eligible for this training program cannot spend 12 hours per week away from his young family and his farming business. This is an excessive load of classroom work in any one-week period.
>
> Further, the new program does not provide for on-the-farm instruction and supervision which was a very valuable part of the training and educational program of the World War II and Korean War veterans programs.

He also testified to the results of a survey made by the American Vocational Association of 21 State supervisors of agricultural education concerning the present farm-training program. In response to the question "Do you feel there may be more interest if a program somewhat similar to World War II and Korean war program, combined classroom and on-farm instruction be made available?" Mr. Dalbey testified that all 22 State supervisors answered this question "Yes." During this survey 21 State supervisors were asked the question: "Do you feel the present law satisfactory?" 20 State supervisors answered "No" to this question. Because of the importance of this testimony, I ask unanimous consent that it be printed in the RECORD upon the conclusion of my remarks.

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

(See exhibit 1.)

Mr. YARBOROUGH. During the hearings, Mr. Edwin Christianson, of the Minnesota Farmers Union, testified as to the need for an effective veterans farm training program as a means of providing replacement farmers. He pointed out that in Minnesota, alone, it has been estimated that there will be a need for 3,375 young farmers to replace those farmers who die, retire, or otherwise leave farming. He also stated that in Iowa there will be a need for 2,700 farm replacements a year and 950 replacements a year in Nebraska. Agricultural colleges simply cannot meet this demand for farmers.

Mr. President, I request unanimous consent that Mr. Christianson's testimony be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. YARBOROUGH. Mr. President, in a memorandum prepared for the conferees on H.R. 11959, Mr. Christianson outlines the great potential that exists for the new farm-training program which I introduced. According to the estimates by agricultural education experts, in 12 States there are potentially 19,000 veterans who would take this training if the requirements were reasonable. Mr. President, I ask unanimous consent that this memorandum be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 3.)

Mr. YARBOROUGH. My bill, S. 1998, was approved unanimously by the Senate Subcommittee on Veterans' Affairs and by the full Senate Labor and Public Welfare Committee and was incorporated as part of title I of H.R. 11959. This bill passed the Senate by a vote of 77 to 0.

In conference, the House conferees were unwilling to accept the new farm program because they stated they believed there was no need for it. Because of the urgent need for an increase in allowance rates, I was willing to allow the farm program to be dropped from H.R. 11959 in order to avoid an impasse on this important bill.

Despite the overwhelming evidence concerning the need for this new farm program presented to the Subcommittee on Veterans' Affairs during its original hearings on my bill, I believe it would be helpful in emphasizing the urgent need for this bill to repeat it here.

Mr. President, the future of farming as a vocation in the United States is dependent on whether young men choose to make it their life's work. Unless we have strong farm-training programs such as the one I am proposing today, farming as a family vocation is doomed to fade into history. The bill I introduce today would be a great step forward toward revitalizing rural America.

Mr. President, I ask unanimous consent that the testimony of Mr. John W. Scott, master of the National Grange, which was presented to the Subcommittee on Veterans' Affairs during the hearings on S. 1998 be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 4.)

LOAN PROGRAM TO ASSIST VETERANS IN OBTAINING A PRIVATE PILOT'S LICENSE

Mr. YARBOROUGH. Mr. President, with the ever-increasing volume of air travel in the world, there is a pressing need for commercial pilots. There are many veterans who are interested in pursuing a career in commercial aviation but are unable to finance the cost of obtaining a private pilot's license which is a necessary prerequisite to obtaining a commercial license. Under the present flight training program, a veteran can receive financial assistance in obtaining his commercial license; however, it is up to him to pay the cost of his private license. Many veterans simply cannot afford private pilot's license training. Furthermore, the high interest rates that banks presently charge make it practically impossible for a veteran to obtain a loan to pay for this training.

The bill that I am introducing today would provide a way for veterans who are seriously interested in flying to finance their private pilot's training. This bill establishes a low-interest loan program, the principal features of which are:

First, a veteran wishing to pursue a course in flight training could obtain from the Veterans' Administration a direct loan in amount not to exceed $1,000 or 90 percent of the cost of tuition and fees of a private pilot's license training program:

Second, such loans shall bear interest at the rate of 6 percent per year; and

Third, such loans shall be repayable in equal monthly installments over a period not to exceed 3 years. These payments shall commence within 1 year after the veteran obtains his private license. In the event the veteran, after receiving the loan, fails to enroll in a flight training program or fails to satisfactory complete his training, the payments shall begin immediately.

This loan program is designed to aid the young veteran who is serious about flying. It is not a giveaway program which would encourage the taking of flight training for amusement. It is a serious decision for a young man to undertake a $1,000 obligation, and I frankly believe that only serious young men will use this program.

I first introduced this measure in January of 1969. My bill was included by Senate amendment as a part of title I of H.R. 11959, which was passed by the Senate by a vote of 77 to 0. During the conference between the House and the Senate, the House conferees would not agree to accept this program. Because of the importance of obtaining the 35-percent increase in the education and training allowances without delay, the Senate conferees agreed to temporarily drop the needed program from the bill. However, I still believe that this is a valuable and needed program, and I shall continue to work for its passage.

Mr. President, I ask unanimous consent that the testimony of Mr. Robert F. Monroe, deputy chief, policy and technical planning division, Aircraft Owners and Pilots Association, which was presented to the Senate Subcommittee on Veterans' Affairs of the Senate Labor and Public Welfare Committee during the hearings on my original bill, be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 5.)

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the names of the following Senators be included as cosponsors of the bill that I am introducing today.

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

> Senator Alan Cranston of California; Senator Quentin N. Burdick of North Dakota; Senator Peter H. Dominick of Colorado; Senator George McGovern of South Dakota; Senator Walter F. Mondale of Minnesota; Senator Frank Moss of Utah; Senator Jennings Randolph of West Virginia; Senator Fred Harris of Oklahoma, and Senator Edward Kennedy of Massachusetts.

EXHIBIT 1

STATEMENT OF C. W. DALBEY, STATE SUPERVISOR OF AGRICULTURAL EDUCATION, STATE DEPARTMENT OF PUBLIC INSTRUCTION, DES MOINES, IOWA, REPRESENTING AMERICAN VOCATIONAL ASSOCIATION

Mr. DALBEY. I am C. W. Dalbey, State supervisor of agricultural education from Iowa, representing the more than 45,000 members of the American Vocational Association. The membership of AVA consists of approximately 10,000 agricultural education personnel including State supervisors, teacher educators, and classroom teachers. Vocational agriculture enrolls approximately 500,000 high school students, 10,000 post-high-school students, and 400,000 adults and young farmers.

Vocational agriculture has had considerable experience with the veterans on-farm training program of World War II and the Korean war. This training program made a terrific impact upon the gross production of agriculture and its beneficial effect to the efficiency in forming of many individuals accepting the training.

We in agricultural education have been much concerned along with veterans and other interested persons that the Veterans' Educational Assistance Act as it pertains to veterans' training on the farm is not applicable to the young man who is doing full-time farming and involved in a sound operation as a farmer.

The present requirement of 12 hours per week of classroom work with no requirement of on-farm supervision is impractical. The average young man eligible for this training program cannot spend 12 hours per week away from his young family and his farming business. This is an excessive load of classroom work in any 1-week period.

Further, the new program does not provide for on-the-farm instruction and supervision which was a very valuable part of the training and educational program of the World War II and the Korean war veterans program.

The present act has requirements which appear to be structured to encourage enrollment in regular college classes which are not synonymous with full-time farming. Unless the young man is willing to class his operation as part-time and attend a college nearby, it does not fit his operations. In the majority of the States, the age of farmers is high. The need for efficient farmers in the period ahead is going to be serious. In our State the average age of farmers is above 50 years of age and we consider this a serious item as we look ahead to those who are going to be involved in the full-time operation of farms in Iowa.

We should lend every encouragement in the way of sound educational programs to encourage efficient farmers to operate the farms of the future in our States. There is a close correlation between the farm income of our Midwestern States and the total population support. We cannot tolerate low farm income and inadequacy in agriculture if we are going to progress as a nation, as a State, or as a county.

We propose changes in the structure of the present veterans' program to more nearly meet the needs of the operating, full-time young farmer. We recommend a revision in the program to the structure operated under the Korean war veterans situation. This involves 50 hours of classroom work per calendar quarter and 25 hours of on-the-farm individual and group instruction in the same period. This arrangement permits the operation of two classes per week for classroom instruction and individual followup instruction on the farm to meet the problems of the individual farming program.

Problems vary widely between dairy farmers, crop farmers, and specialized farming operations. This calls for individualized types of instruction to meet their needs in order that they secure the highest return from their farming operations. Farming is highly competitive and profit margins are generally low. We need the maximum of efficiency among our young farmers as we look ahead.

Our committee, composed of George Cochran, State supervisor of Minnesota, Doyle Beyl, State supervisor in Wisconsin, and myself, State supervisor of Iowa, conducted a survey in a number of States to determine the interest in the program under its present structure.

Under this question: "Do you feel there may be more interest if a program somewhat similar to World War II and Korean war program, combined classroom and on-farm instruction be made available?" 22 States answered yes, and not one State answered in the negative. This indicates the complete disagreement of the present program among the States we surveyed.

Among the various States and nationwide checking, there is indication of very little instruction for veterans on the farm in the United States. Perhaps we in Iowa are the largest of any State, and we have found it very difficult to start veterans classes under the present structure of the program.

When we asked the State supervisors of agricultural education in 21 States on the quesion: "Do you feel the present law satisfactory?" 20 answered in the negative and one State answered in the affirmative. We feel this gives you an indication of the thinking of these men who were involved in the sponsoring of the veterans agricultural training of World War II and the Korean war. We think the agriculture of the Nation and its importance in the total economy demand that this be given utmost consideration by Members of Congress as they look ahead in the veterans training program.

In Iowa the income from farming represents $3.75 billion, which amounts to over $12 billion in the total economy of our state, which is roughly 50 to 90 percent of the total State economy. We cannot afford to let down on our assistance to farm people in making their farming programs efficient, practical, and sound. It means profit in the pockets of all people in our States and Nation.

We sincerely urge you to give consideration to amending this law to make it more practical as it relates to operating farmers. These young men are just as deserving of this training as any other young man of the veteran's status. They should not be denied this education because of the impractical features of the present law.

We feel that the veterans law is entirely too structured toward college-bound students. I have been rather alarmed here this morning about the emphasis placed here on college students. College-bound people and college graduates represent a very small portion of our population. Only 10 percent of the high school graduates nationally, and 12 to 14 percent in our State, receive college degrees.

We thank you for this opportunity to present our feelings and convictions on this important legislation.

We are supporting S. 1998 by Yarborough. We think this will help clear up the problem. I think we need to realize that the emphasis on college doesn't represent many people, and even though college is important, we find that this 80 to 90 percent of the people, or at least 80 percent of the people who aren't involved in college degrees are causing a lot of our problems. I think we need to look ahead as we structure this veterans program.

Thank you for this opportunity, Senator Cranston.

Senator CRANSTON. Thank you very much. I have a question that Senator Yarborough wished me to address to you.

First, would you agree that education in agriculture and farming is more essential than ever in operating an agricultural enterprise under modern circumstances?

Mr. DALBEY. I would. Of course, our State is a strictly agricultural State. I was in the banking and loan business one time, and it convinced me that the operation of these farms in these various counties have a lot to do with the economy on Main Street. In most of our counties in Iowa, the income from farming exceeds the gross retail sales in the county.

Our economy is almost directly tied to agriculture, and as agriculture goes in our State, and most of the Midwestern States, so goes the general economy.

The population—if you will check the population of Iowa, Nebraska, and South Dakota, the population in the State is in comparison to the farm income. In the State of Wyoming, with about 10 percent of farm income of Iowa, supports about 10 percent of the population of Iowa.

I think if you will check this out, unless it is an outside subsidized State, agriculture is very important.

One time a fellow could farm if he couldn't do anything else. The opposite is true now. It is a highly efficient business. It requires skills, training, and lots of knowledge, and certainly a lot of economic knowledge.

Senator CRANSTON. A second question from Senator Yarborough.

Do you think the lack of farm training for veterans is a contributing factor to the advancing age of the average farmer in our declining rural population?

Mr. DALBEY. In the Vietnam situation, not enough of them are available. We have been surprised in the vocational school area that we have 120 veterans signed up for this program in one four-county area.

So there are more back there than we realize. The State supervisors haven't been able to push this as they should because of the shortage of vocational agriculture teachers.

We need to get the young people down on the farms. The age of farmers is creeping up rapidly. It is difficult to rent some land in Iowa because there are not farmers available.

Senator CRANSTON. In your prepared statement, you express the view that the present farm cooperative program does not provide for on-the-farm instruction and supervision.

Are you referring there to a requirement that you think ought to be in the law, or lack of authority for such on-the-farm instruction and supervision?

Mr. DALBEY. This is an important point. Individual farm operations vary widely. Some are hog farms. Others are grain, and so forth.

Senator CRANSTON. You refer to the survey of 20 States regarding required?

Mr. DALBEY. Legislation is required there, because the present law doesn't require it. It is in Senator Yarborough's bill.

Senator CRANSTON. You refer to the survey of 20 States regarding the present and proposed revisions of the cooperative program. Could you indicate whether California is one of the States surveyed and provide for the record a breakdown of the survey information you gave us?

(The information referred to may be found in the files of the subcommittee.)

Mr. DALBEY. I just went through those, and California is one of them.

Senator CRANSTON. Regarding the farm co-op program, which you supported, there are several questions I would like to ask you. The thrust of them is to determine exactly what provision of S. 1998 you see as a key to

opening up the farm cooperative program and which might or might not be necessary at this point.

First, in California, agriculture students above the secondary level enroll in a junior college, State college or the University of California campus, which maintains its own farm on which the student works and learns.

Why is it necessary that a veteran has to own or control his own farm which such opportunities are available?

Mr. DALBEY. The previous provision in there, "own a control a farm," which means control the operation as a tenant. There is another aspect that could be added.

We think the person should control in some way the farm in order to properly benefit from the training. If the manager has complete control of the operation, the student cannot use what he learns in class. He should have some control.

However, there is another aspect of this thing that we need to consider, and that is for the young man who is going to work with someone else in agriculture, and they are getting to be a rather sizable proportion of these young men, because large industry is involved in agribusiness, and this could be something which could be added.

I don't know whether that answers your question or not.

Senator CRANSTON. What if a young man wants to go into agriculture, but has not inherited a farm, and has no farm he controls?

Mr. DALBEY. He should not be denied the training.

Senator CRANSTON. In agriculture, continuing mechanization requires new mechanical techniques. Can't the student learn these techniques better on a college experimental farm than on the family farm? In this circumstance, why is it necessary that the young man receive half of his individual instruction on the farm he individually owns?

Mr. DALBEY. We find our farmers in most States are very close to what is new. If a new corn-planter is introduced or a new picker, those are practically always available within a relatively short driving distance. It isn't only the universities that possess this equipment. In fact, the commercial concerns out in the area are the first owners. So they do have access to this equipment.

Senator CRANSTON. Since many of the farms in California are in permanent, rather than annual crops, the future farmers may have a farm of several hundred acres planted in, say, olives or figs, but may want to receive training in other crops, such as citrus or wine grapes.

Do you think it should be required that he have training in olives or figs when he wants to grow something ele?

Mr. DALBEY. I don't think he should have supervised training in a program he is not interested in.

Senator CRANSTON. Another question in this general area. Increasingly complex skills are required of the farmworker as agriculture becomes more scientific and more complex. The child of today's migratory worker may aspire to be a farm manager or a specialist in a specific field of farming, particularly on a corporate farm.

Doesn't the requirement, again, that he own his own farm prevent the farmworker from using his veterans benefits to get the training he needs to get a decent job in agriculture, and possible remove him from the migrant stream?

Mr. DALBEY. I believe this. We have to provide every opportunity to these young people. One of the important problems in the States is the way capital is being pulled together, not only in farming, but in all segments of the economy. We have got to open this training to the young people.

I realize it isn't in the bill exactly, but could be added.

Senator CRANSTON. Given the advantages of relocating core city slum dwellers, many of whom came from farms originally, and know something about farming, back into an agricultural economy, isn't the training in techniques necessary to be a successful farmer a good idea for the interested veteran, even though he may not have been fortunate enough to have inherited a farm?

Mr. DALBEY. In our State, and yours, and in many other agricultural States, the number of people being employed in agri-business other than farming is jumping rapidly. We have jumped from 260,000 to 270,000 in our State alone during the past 2 years.

We are going to employ a lot of people who were not reared on the farm who are actually interested in something of this type.

Look at the greenskeepers on the golf course. Some of them are drawing as high as $30,000 a year. They need agricultural training.

Senator CRANSTON. Let's suppose there is a veteran who has newly planted a vineyard or citrus grove, but will probably receive no income from the endeavor for 5 years.

He could hardly be expected not to seek outside income during the slow-growing period, nor could he expect under normal circumstances to receive a satisfactory income by the end of this course, as is required in the legislation.

Shouldn't we provide also for veterans who want to go into permanent crops, not just those planted and harvested annually?

Mr. DALBEY. Absolutely. No question about it.

Senator CRANSTON. Thank you very much. I appreciate your being here.

EXHIBIT 2

STATEMENT OF REUBEN L. JOHNSON, LEGISLATIVE DIRECTOR, NATIONAL FARMERS UNION, PRESENTING THE STATEMENT OF EDWIN CHRISTIANSON, VICE PRESIDENT, NATIONAL FARMERS UNION AND PRESIDENT OF MINNESOTA FARMERS UNION

Mr. JOHNSON. Mr. Chairman, I apologize for not having been able to spend more time at the hearings.

In view of the late hour, and so that I won't infringe on your lunch hour, with your permission I will just file this statement.

Senator CRANSTON. You have that permission.

(The prepared statement of Mr. Christianson follows:)

"PREPARED STATEMENT OF EDWIN CHRISTIANSON, PRESIDENT OF MINNESOTA FARMERS UNION

"We wish to commend the members of this Subcommittee for their interest in this legislation and to stress its importance to family farm agriculture in the nation.

"In farming today, there is a greater premium than ever before on management ability and skill in adapting new methods and technology and in using farm capital. The future will be even more demanding in our opinion.

"Yet, our nation's high school vocational agricultural classes and the agricultural departments of our universities and colleges are training only a fraction of the young farm replacements which will be needed in the years immediately ahead.

"Studies have shown that only about half of those earning agricultural degrees in college actually remain in farming—many of them end up in related agri-business activities. So, we are not only short in the number of men graduating from agricultural schools, but only a part of them continue in actual farming.

"The GI farm training classes have a record which is particularly significant. A survey in our state of Minnesota showed that in 1960 most of the veterans who had taken farm training under the GI law in 1954 through 1966 were still in farming. A follow-up study of the cases of 3,179 veterans indicated that six to eight years after completion of training nearly 84 percent of the men were actively farming and another 3 percent were in related agri-business fields. The same study showed that, on the average, these men had increased their net worth by about 58 percent per farm and had shown a gain in the farm capital of about 54 percent per farm.

"The farming States and the Nation as a whole are going to need large numbers of young replacement farmers in the next ten years.

"In Minnesota, educators have calculated that about 3,375 farm replacements will be needed each year to succeed farmers who retire, die or leave farming. The estimates take into account the expected trend in the reduction in farming units and the consolidation of farms into large units. An Iowa State University study has indicated the need for about 2,700 farm replacements a year and a study by the University of Nebraska has projected the need for about 950 farm replacements a year.

"But, in contrast to the projected need of 3,375 young farmers a year in Minnesota, our agricultural schools are graduating only about 1,000 a year and only part of them are going into fulltime farming.

"A workable farm training program under the G.I. bill could be very important in filling the educational gap in Minnesota and elsewhere.

"We have a large potential in Minnesota for farm training classes. There are about as many veterans of service in the armed forces since 1955 as there were in the aftermath of the Korean hostilities and World War II.

"Nationally, some 780,000 veterans used their G.I. educational eligibility for farm training—and about 30,000 did so in Minnesota.

"Now, according to the best estimates by our educators in this field, we have a potential in Minnesota of about 5,200 veterans who would avail themselves of farm training under the G.I. bill if a realistic program along the lines of the post-Korean program were available.

"Because the regulations are now completely unrealistic, there is only one farm training class in operation. It is at Alexandria, Minnesota, and it has some 20 students.

"There are applications pending from 11 other schools—Middle River, Willmar, Montevideo, Madison, Worthington, Jordan, Blue Earth, Waterville, St. James, Hayfield and Detroit Lakes. They would each have about 30 to 35 students each.

"In addition, we understand that there are about 30 other schools which might serve as centers for such training classes and would have 20 to 30 students each.

"The hindrance to formation of these classes is that the young farmers cannot farm full-time and still engage in the equivalent of the full-time college studies, which is in effect the result of the requirement that 12 hours a week must be spent in classroom training under the program. It is true that the Congress has acted to allow students to attend on a three-quarter time or half-time basis with a proportionate reduction in the educational assistance allowances. This amendment, however, has not served to take care of the problem.

"We believe that S. 1998 take some constructive steps towards developing a program in which there could be widespread participation. It provides flexibility for the State approving agencies in designing the programs.

"It is particularly significant, we think,

that the bill reduces the number of classroom hours to 200 per year or not less than 8 hours per month and that it restores and recognizes individual on-the-farm instruction as part of the program.

"The bill is realistic in providing that the farming activity of the trainee and the G.I. farm training, together, will occupy the full time of the eligible veteran. It also will emphasize instruction in management and technological advances which are applicable to the farming operation of the trainee.

"We are convinced that if S. 1998 becomes law, as it now reads, it will encourage the formation of numerous farm training classes in Minnesota and all across the farming areas of the nation.

"In conclusion, we want to stress that it is discriminatory and unfair that young men who interrupt their educational or farming careers to serve the nation in the military forces cannot use their G.I. educational eligibility for farm training.

"Almost 500,000 veterans have used the 'Cold War' G.I. bill for college work since 1967, about 175,000 have used the program for on-the-job training, but virtually none have been able to use the program for agricultural training.

"It is the clear purpose of the G.I. bill in 'aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.'

"It is time now for the Congress to restore equal educational opportunity to veterans who choose to farm.

"We want to acknowledge the important leadership which Senator Yarborough and the members of this Committee have given in the past and urge again that you make the needed effort to gain the program improvements which are vital if the program is to be meaningful to agricultural people."

Senator CRANSTON. I would like to ask you a couple of questions.

Mr. JOHNSON. All right, sir.

Senator CRANSTON. I appreciate very much your being here and your willingness to proceed in this fashion.

We have been discussing this morning, without an opportunity for you to listen in, the detailed requirements in the present law and S. 1998 regarding opportunities for veterans to get training on farms.

Why is it necessary that a veteran own or control a farm? That would seem to me to eliminate opportunities for those who just don't have the luck of inheriting a farm and yet would like to learn enough about farming to make that their career.

Mr. JOHNSON. Mr. Chairman, I suppose that, looking back into the development of agriculture education in the beginning, in Vocational Agriculture and the Extension Service we developed what we called a "project procedure." A boy, or a girl, would develop their program of education around a project, a calf or a garden, or a plot of corn, or some kind of a project which would actually give them work experience, and would go along with their classroom education.

It is pretty difficult to teach agriculture in the abstract, sir, and this tradition prevailed when the Smith-Hughes legislation was passed, and vocational agriculture was introduced into our high schools together with the youth organization, the Future Farmers of America.

Having been a teacher of vocational agriculture, and an adviser to an FFA chapter, I must say that I feel the project approach to training in agriculture is certainly one that provides the student with an incentive and with an interest that rarely prevailed in the other courses presented in the high schools where I taught.

There is absolutely no reason why training should not be available to people in agriculture other than the farm operator group. It seems to me there is a need for this. Through some of the programs in the past—I was thinking especially of programs in World War II—we had Federal funds and we brought in people and taught them how to weld and do equipment repair and a number of things that the vocational agriculture department could do, in addition and above the regular program of in-school and out-of-school instruction.

The aim of the program, as we see it, is to give people who are interested in making a career in agriculture an opportunity to get a start, and somewhere in this statement here it is pointed out here that in the State of Minnesota, in 1960 most of the veterans who had taken farm training under the GI law from 1954 to 1966 were still in farming.

It seems to me this is the objective we want to seek, and unless a trainee has some hold on a piece of land that would give him an opportunity to enter farming, chances are he may never be able to utilize this training, and that would be a tragic thing if that should develop.

I believe that some of the Labor Department's programs relating to helping workers find employment in agriculture might be a place where this training could come from.

As I pointed out here earlier, the Departments of Vocational Agriculture at an earlier time set up special programs for various kinds of people, without regard to whether they were farm operators. That is a possibility.

Senator CRANSTON. Aren't there increasing opportunities in the large corporate farms now for what amount to professionals to come in and participate in the operation?

Mr. JOHNSON. Well, sir, most of the corporate managers that I am familiar with are college trained these days. That doesn't preclude a young man from coming into a managerial position, but in these kinds of situations where, actually, you are training for managerial positions in a corporate farm structure, I would say that the local administrators of the program might be given leeway in terms of making a determination as to whether this trainee actually had the potential or the opportunity to eventually move into that kind of a position.

I would not object in this legislation to giving the local administrator, State and local administrators, some leeway to take care of these kinds of people that they felt actually were in an operative capacity who had an opportunity for further advancement to come in and take this kind of training.

I am thinking about a State like Minnesota, where we don't really have a corporate invasion, yet, of agriculture. These are family farms, and I think in this regard, Senator, that your State of California is unique.

Senator CRANSTON. What is your view of the requirements for training specific crops which can apply to somebody who has no interest in those, but wants to learn about certain other crops?

Mr. JOHNSON. Well, sir, my experience has been in this regard that unless a young man had contacts in an area where this other crop was grown, there would not be much interest in producing a crop that he isn't familiar with and that is not produced in the area of his residence.

Senator CRANSTON. I think that covers it adequately. Thank you very much for being with us. I appreciate your coming back a second day.

Thank you very, very much.

Mr. JOHNSON. Thank you.

Senator CRANSTON. We now will stand in recess until 9:30 tomorrow morning in this same room. Thank you all very much.

(Whereupon, at 1:05 p.m. the subcommittee recessed, to reconvene at 9:30 a.m. the following day, Thursday, June 26, 1969.)

EXHIBIT 3

MINNESOTA FARMERS UNION,
St. Paul, Minn., March 6, 1970.

As a member of the conference committee on H.R. 11959, we urge you to work for acceptance of the Senate provisions regarding the establishment of an Institutional-on-Farm Training program comparable to that available following World War II and the Korean conflict.

While there is only scattered participation in the cooperative farm training program under existing law, due to the basic impracticality of the program, the situation would be altogether different if the farm training provisions of the Senate bill are accepted.

There is a great potential for an Institutional-on-Farm training program, as can be seen from a spot check of educational agencies in these states:

B. E. Gingery of the Nebraska Department of Education estimates a potential of 2,500 veterans in a farm training program such as that contemplated in the Senate bill.

Dr. Lloyd Phipps of the University of Illinois Department of Education and G. Donovan Coil of the Illinois Department of Public Instruction concur in projecting participation by about 1,500 men.

Odell Barduson of the Minnesota Department of Education projects participation by about 5,200 veterans in a farm training program.

E. W. Gustafson, state supervisor for agricultural education in South Dakota, anticipates the formation of about 40 classes, with an average enrollment of 25 each, a total of 1,000.

James E. Dougan of the Ohio Department of Education indicates a potential participation of approximately 500 to 600 in his state.

J. M. Campbell, supervisor of agricultural education in Virginia, estimates that about 250 would enroll in an Institutional-on-Farm training program.

Hooker M. Coen, commissioner of the Mississippi Veterans Affairs Commission, estimates a potential of 250 to 500 farm trainees.

Frank R. Adams, coordinator in the Tennessee Division of Veterans Education, indicates a potential of perhaps 400 or 500 under the existing program, but declares that the number would be "much larger in the event legislation was enacted similar to the legislation enacted for Korean veterans."

Wayne Asche, Chief Supervisor of Agricultural Education in the Indiana State Vocational Education section, estimates the potential farm enrollment at 877.

Laurin P. Gordon, executive secretary of the Wisconsin Education Approval Board, reports that there are about 100 in training under the current program and would be at least 1,500 if the Senate provision were adopted.

C. C. Eustace, State Supervisor of Agricultural Education in the Kansas Department of Education, believes that Kansas would have a potential enrollment of 2,400 men in farm training, assuming a good program is available.

Elwood Mabon, coordinator in career education in the Iowa Department of Public Instruction, estimates a possible 3,000 to 3,500 peak participation in farm training centered at the state's 16 technical schools. Currently, one school has a GI farm training program in operation with six classes and a total of some 140 men participating.

Currently, there are about 411 men in the cooperative farm training program nationally and the Veterans Administration has projected that this number could go to 1,000 men by 1974.

The VA has also projected that if the Senate farm training provisions were available, there would be an additional participation of 1,400 men monthly in the nation by 1974. From the evidence cited above, the VA

projections are completely unrealistic, since a potential of 19,000 men is indicated just in the states listed.

For all practical purposes, at present, it is almost impossible for young veterans to use their GI educational eligibility for farm training. It is high time that the Congress acted to remedy this discriminatory situation.

Even if, as some say, participation in a Korean-type farm training program would turn out to be negligible, nothing would be lost by having the enabling authority on the statute books.

But we contend, and we feel we are on sound ground, that the participation would be large, and if the authorization is not forthcoming from Congress, much would be lost because many thousands of young men whose educational career was interrupted for military service will not be able to choose agriculture as the field in which they wish to improve their skills.

We therefore urge you to work for acceptance of the Senate provisions on farm training in the final compromise version of H.R. 11959. Such a course would be most helpful to the people in Rural America.

Respectfully,

EDWIN H. CHRISTIANSON,
Vice President, National Farmers Union.

EXHIBIT 4

PREPARED STATEMENT OF JOHN W. SCOTT, MASTER OF THE NATIONAL GRANGE

Mr. Chairman and Members of the Subcommittee: I am John W. Scott, Master of the National Grange, with offices at 1616 H Street, N.W., Washington, D.C.

The National Grange is a rural-urban family organization with 7000 community Granges located in 40 of our 50 states. Although the majority of our members would not receive any direct benefit from legislation now being considered by this subcommittee, they do have a keen interest in the improvement of rural living, extending the advantages of better education to rural people and equal opportunity, especially for our veterans, to earn advancement in their chosen profession of agriculture.

In our judgment, the enactment into law of S. 338, to amend section 1677 of title 38, United States Code, to increase the rates of educational assistance allowance paid to veterans under such sections, specifically section 1682(a) of title 38, United States Code; and S. 1998, a bill to amend section 1682(d) of title 38, United States Code, so as to modify the requirements for the farm cooperative program under such section, is not only in the best interest of members of the National Grange, but more importantly, is in the best interest of the nation.

The National Grange has been disappointed in the participation in the education and training programs established by the "Cold War" G.I. bill. Records of the Veterans Administration show that only 20 percent of those eligible for benefits had claimed them, compared with 50 percent of World War II veterans and 42 percent of the veterans of Korea. We believe that one of the reasons for the low participation is the fact that the level of assistance provided has not kept pace with the fast-rising cost of education.

The number participating in cooperative farm training programs has shown a greater drop due, we believe, to the restrictive requirements of the present law regarding the number of classroom hours per year necessary for participation in the program. S. 1998 reduces the number of classroom hours to 200 per year, or not less than 8 hours per month and, most importantly, it restores and recognizes individual on-the-job farm instruction as part of the instruction program.

The hindrance to formation of new classes, which is an indication of the participation in the program, is that the young farmer veterans cannot farm full time and still engage in the equivalent of full-time college studies, which is, in effect, the result of the requirement that 12 hours a week must be spent in classroom training under the present program. It is true that provisions of the present law allow students to attend on a three-quarter-time or half-time basis, provided that the student takes a proportionate reduction in the educational assistance allowance.

This amendment has not taken care of the problem. We have pointed out that full subsistence allowance does not meet present-day educational costs, let alone help finance farm management, therefore the returning veteran cannot attend full time and still manage a farm or an agriculture establishment. He cannot attend part time, due to low subsistence allowance and still manage an agricultural enterprise. The net result is that he does not participate in the educational or training programs that are provided for returning veterans. Thus he is deprived of the educational opportunities available to the non-veteran and our society is deprived of a well-trained and educated farmer to continue the production of our food and fiber.

In our judgment, S. 338 and S. 1998 take constructive steps toward developing programs in which there would be widespread participation. S. 1998 provides flexibility for the State approving agencies in designing the programs, thereby improving the attractiveness to returning veterans and encouraging farm veteran participation.

In addition, S. 1998 is realistic in providing that the farming activity of the trainee and the G.I. farm training, together, will occupy the full time of the eligible veterans. It also will emphasize instruction in management and technological advances which are applicable to the farming operation of the trainee.

The clear purpose of the G.I. bill is "aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country". We therefore want to stress that it is unfair that young farm boys who have interrupted their educational or farming careers to serve the nation in the armed forces cannot use their G.I. educational eligibility for on-the-farm training.

The Veterans Administration advises us that nearly 500,000 veterans have used the "Cold War" G.I. bill for college work since 1967, about 175,000 have used the program for on-the-job training, but virtually none have been able to use the program for on-the-job agricultural training.

American agriculture needs and demands young farmers trained in management and new farming skills *now* and the future will be even more demanding. The returning veteran, untrained, unskilled in modern farming technology, will soon find that farming has passed him by. He needs and deserves to be trained in the vocation of his choice and we need him in American agriculture to replace the older farmers who are at or beyond the retirement age.

In conclusion, we want to stress the importance of enactment into law of S. 338 and S. 1998. Sec. 2(a) of S. 338 would bring education benefits closer to the actual costs of higher education and S. 1998 would bring about the necessary changes that will encourage young returning farm veterans to stay on the farm and, at the same time, gain the education necessary to compete in modern agricultural production and marketing.

We wish to thank the Chairman, Senator Yarborough, and members of this Committee for their leadership in the field of veterans' education and urge that you continue the necessary effort to gain the program improvements which we consider vital if the programs are to be meaningful to agriculture and rural America.

Mr. Chairman, we would appreciate our statement being made a part of the record of this hearing.

Thank you.

EXHIBIT 5

PREPARED STATEMENT OF ROBERT E. MONROE, DEPUTY CHIEF, POLICY AND TECHNICAL PLANNING DIVISION, AIRCRAFT OWNERS AND PILOTS ASSOCIATION

I am Robert E. Monroe, Deputy Chief of the Policy and Technical Planning Division of the Aircraft Owners and Pilots Association (AOPA).

AOPA was formed in 1939 to provide a means through which individual pilots and aircraft owners could combine their efforts to make flying safer, more useful, more economical and more pleasant. Our membership approximates 150,000 and includes over 22% of the active civil pilots who account for the ownership of over 70% of the active general aviation aircraft in the United States.

We appreciate the opportunity to present our views regarding S. 338 which would improve the opportunities for veterans to undertake flight training as an aid to their vocational pursuits.

Veterans should be able to take educational courses which not only prepare them for employment in the field of aviation but which also would provide them with aeronautical skills that will enhance their earning capacities in other vocational fields. S. 338 will help to achieve this objective.

Transportation is the lifeblood of commerce and no business of any substance is free from its constraints. There is great merit in helping a veteran to acquire the ability to fly, even though he may not use that ability as his primary means of earning a living, but will use it to enhance the productivity of his primary vocational pursuit. Like being able to read, speak or write effectively, the ability to travel expeditiously and at will is often a vital ingredient to successful business activity. The use of aircraft in regular business activity is increasing steadily and rapidly. Farmers, foresters, engineers, architects, merchandisers, educators, clergymen, salesmen, business administrators and a host of others in a wide variety of vocational pursuits have found that airplanes and aeronautical skills have enlarged their professional productive capacities.

The loan feature of the bill, to enable veterans to practically manage the hurdle of financing the private pilot certificate requirement, is most important. Veterans undertaking training generally are strapped for funds and need this kind of assistance if they are to be able to accomplish their training objectives within a reasonable period of time and derive the maximum benefit from the training undertaken.

Veterans have earned and are entitled to the kind of vocational assistance which meets their requirements. We strongly urge that S. 338 be enacted.

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

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, will be printed in the RECORD, as requested.

The bill (S. 3689) to amend chapter 34 of title 38, United States Code, to authorize the Administrator of Veterans' Affairs to make loans to veterans to help

meet the expenses of obtaining a private pilot's license where such veterans intend to pursue a flight training program under such chapter, and to improve the farm cooperative training program authorized under such chapter, introduced by Mr. YARBOROUGH (for himself and other Senators), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3689

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1677 of title 38, United States Code, is amended by adding at the end thereof a new subsection as follows:

"(c) (1) In any case in which a veteran wishes to pursue a course in flight training under this section but does not possess a valid private pilot's license and has not satisfactorily completed the number of hours of flight instruction required for a private pilot's license, the Administrator is authorized to make a direct loan to such veteran to pursue the flight training required for a private pilot's license.

"(2) Loans made under this subsection may be made in any amount not exceeding $1,000 or 90 per centum of the established charges for tuition and fees which similarly circumstanced non-veterans enrolled in the same flight-training course are required to pay, whichever amount is less; and such loans shall bear interest at a rate determined by the administrator, but not to exceed 6 per centum per annum.

"(3) Loans made under this section shall be repayable in equal monthly installments over a period of time not to exceed 3 years commencing—

"(A) upon the failure of the eligible veteran to obtain a private pilot's license within one year after the loan is made.

"(B) upon the failure of the eligible veteran to enter upon a course of training under subsection (a) of this section within one year after obtaining a private pilot's license,

"(C) upon failure to complete satisfactorily such a course of training within eighteen months after enrollment in a course of training under subsection (a) of this section, or

"(D) one year after the veteran has completed his course of training under subsection (a) of this section.

"(4) Loans made under this section shall be made upon such other terms and conditions as may be prescribed by the Administrator."

SEC. 2. (a) Section 1682(d) of title 38, United States Code, is amended to read as follows:

"(d) (1) An eligible veteran who is enrolled in a 'farm cooperative' training program which provides for institutional and on-farm training and which has been approved by the appropriate State approving agency in accordance with the provisions of paragraph (2) of this subsection shall be eligible to receive an educational assistance allowance as follows: $141 per month, if he has no dependents; $167 per month, if he has one dependent; $192 per month, if he has two dependents; and $10 per month, for each dependent in excess of two.

"(2) The State approving agency may approve a farm cooperative training course when it satisfies the following requirements:

"(A) The course combines organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational institution, with supervised work experience on a farm or other agricultural establishment; and the course provides for not less than one hundred hours of individual instruction per year, at least fifty hours of which shall be on a farm or other agricultural establishment (with at least two visits by the instructor to such farm or establishment each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products.

"(B) The course is developed with due consideration to the size and character of the farm or other agricultural establishment on which the eligible veteran will receive his supervised work experience and to the need of such eligible veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farming management, and the keeping of farm and home accounts.

"(C) The farm or other agricultural establishment on which the veteran is to receive his supervised work experience shall be of a size and character which will permit instruction in all aspects of the management of the farm or other agricultural establishment of the type for which the eligible veteran is being trained, and will provide the eligible veteran an opportunity to apply the major portion of the farm practices taught in the group instruction part of the course.

"(D) Provision shall be made for certification by the institution and the veteran that the training offered does not repeat or duplicate training previously received by the veteran.

"(E) The institutional on-farm training meets such other fair and reasonable standards as may be established by the State approving agency."

(b) The amendments made by subsection (a) of this section shall become effective on the first day of the second calendar month following the month in which this Act is enacted; but any veteran enrolled in a farm cooperative course under section 1682(d) of title 38, United States Code, prior to such effective date may continue in such course to the end of the current academic year under the same terms and conditions that were in effect prior to the effective date of the amendments made by subsection (a) of this section.

THE NOMINATION OF GEORGE HARROLD CARSWELL TO THE SUPREME COURT

Mr. YARBOROUGH. Mr. President, the debate over the nomination of Judge Carswell for the Supreme Court has developed an unfortunate and an unwarranted overtone over whether a white southern conservative should be appointed.

The real basis for Judge Carswell's opposition is not whether he is a white southerner, but what kind of a white southerner he is. On the nomination of Justice Thurgood Marshall, I received letters opposing him because he was a Negro; I rejected all such opposition as unworthy. When Justice Abe Fortas was under attack, I heard criticism of him because he was a Jew; I rejected it as unworthy. Opposition is heard to Judge Carswell because he is a white southerner. I likewise reject it as unworthy. I reject all attacks based on race, religion, regionalism, or national origin.

Should Judge Carswell be rejected, I hope that President Nixon nominates another white southerner to the Court, because of the attacks on the last two nominees on that score. I respect the right of the President to nominate a person of his own political ideology. But erudite and learned men can be found in the South who are conservative. Some sit with us here every day. Senators JOHN SHERMAN COOPER of Kentucky, JOHN STENNIS of Mississippi, and SAM ERVIN of North Carolina, to name only three, are men of unimpeachable honor and integrity and of fine ability. All have been judges; Senator ERVIN is often called the greatest constitutional lawyer in the Senate, and was a former supreme court justice in North Carolina.

I voted for confirmation of Chief Justice Burger, a conservative. I do not vote against men because of their political philosophy.

President Nixon can find able men of conservative bent and of his own political party from my home State of Texas. If Judge Carswell is rejected, I respectfully invite the President to examine proven judges of his own party in Texas. Chief Judge John R. Brown of the fifth circuit is a judge of great erudition and is recognized by lawyers of all political parties in my home State of Texas as being of top Supreme Court quality. Federal Judge Joe Estes of Dallas was a brilliant scholar in law school, and is an able judge who is of the President's party and is a stanch conservative. And we have brilliant law writers on the faculties of law schools in the South, and in Texas, who fit the President's search for a conservative on the Court. I invite the President to look to his own party in Texas; to its judges, lawyers, law teachers, and law writers.

It is unfortunate that the President, by the Carswell appointment, adds to the myth that all white southern conservatives are mediocre men, or are high-handed and intolerant toward lawyers of differing views when they are placed on the Court. As a white Texas lawyer who practiced in the courts of my State, State and Federal, for 20 years and was judge there for 5, I know it is not so.

I have received a number of letters from the faculty of the University of Texas School of Law concerning the nomination of Judge Carswell. Of these letters, one from Prof. Charles Alan Wright expressed support for the nomination of Judge Carswell. The following members of the faculty expressed their opposition to the nomination:

Prof. William O. Huie, Prof. Robert E. Mathews, Prof. Roy E. Mersky, Prof. Lino A. Graglia, Prof. David W. Robertson, Prof. James M. Treece, Prof. O. James Werner.

Prof. Joseph P. Witherspoon, Prof. Michael P. Rosenthal, Prof. Albert W. Alschuler, Prof. Robert W. Hamilton, Prof. Allen E. Smith, Prof. George Schatzki, Prof. Parker C. Fielder.

Mr. President, I ask unanimous consent

that these letters from the faculty members of the University of Texas School of Law be printed in the RECORD.

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

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 24, 1970.

HON. RALPH W. YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am aware that some of my colleagues have written you urging you to vote against the confirmation of Judge Carswell to the Supreme Court. I write to express a contrary view. My colleagues who oppose Judge Carswell do so on the basis of newspaper reports and on reading a scattering of his opinions. I doubt very much if they have read the full text of the hearings and of the majority and minority views in the Judiciary Committee. I have. I am quite certain that they have not known Harrold Carswell for eight years. I have.

I know Judge Carswell to be a man of keen intelligence and of great fair-mindedness. I am wholly satisfied that he has outgrown the views of his youth and that he is not a racist. I hope very much that you will vote to confirm his nomination.

Sincerely,

CHARLES ALAN WRIGHT.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

Re Judge Carswell.
HON. RALPH YARBOROUGH,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I realize that this letter may be quite superfluous. At the same time, you are doubtless getting pleas on behalf of Judge Carswell's confirmation and I would not want those who oppose it to appear indifferent or uninformed.

I have read most of the transcript of Hearings before the Judiciary Committee. They are both fascinating and distressing. Certainly the evidence of the judge's racial bias is disturbing enough, for the Supreme Court is bound to be reviewing issues of that type. I gravely doubt that Judge Carswell can rise above this. There is, in my opinion, no comparison either in fact or personality between him and Mr. Justice Black.

But even if he should be able to do so, it is inconceivable that he can ever attain the intellectual competence which is essential to participation in the work of the Court. I am utterly appalled at Senator Hruska's remark two days ago that there are many mediocre lawyers and they should be represented. That is so incredible a thought that one can hardly believe an educated person would utter it.

The testimony of Dean Pollak of the Yale Law School and of Professor Van Alstyne of Duke reveals unquestionably a judge of very small competence. Actually, Senator Hruska admits it by his very statement. But there is no place for inadequacy or even mediocrity on our highest court. Too much of America's future depends on high ability and deep wisdom. We just can't risk anything less.

There is a possibility, I fear, that less scrutiny will be given a second nomination than the first. I can understand the tendency of busy Senators, who sense a sincere anxiety to get along with other important tasks, to let this time-consuming issue pass by without the same attention as the first. Actually, however, it would be my conjecture that Judge Carswell's confirmation would be far more disastrous than Judge Haynsworth's would have been.

I expect that I need not have taken your time or mine to express these views, but as I have already said, I'd like them to add their bit to the scales on the side against confirmation.

Very truly yours,

ROBERT E. MATHEWS.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

HON. RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: As one involved in the teaching of law, I am deeply concerned about the quality of the law and of those to whom its administration is entrusted.

I am troubled by the nomination of Judge Carswell to the Supreme Court of the United States. President Nixon had promised to select a pre-eminent jurist for this position. In my opinion, Judge Carswell does not meet this test. His opinions are not notable in scholarship or craftsmanship, nor has he contributed significantly in any other way to the law. His record is inferior to that of other judges in his own circuit. Measured by the standards of the great men in the history of the legal profession in this country, Judge Carswell's attainments are mediocre. His appointment would break the tradition of distinguished Republican appointees to the Court.

If the United States Supreme Court is to retain its integrity and dignity, and if we are to inspire the young to consider the law as a worthwhile pursuit, membership on the Court must be reserved to abler men.

Sincerely yours,

ROY M. MERSKY,
Professor of Law and Director of Research.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Texas, March 18, 1970.

HON. RALPH W. YARBOROUGH,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am writing you in my individual capacity to urge you to vote *against* confirmation of Judge Carswell. I am a professor of law at The University of Texas.

I object to this nomination primarily because Judge Carswell is not qualified intellectually to serve on the United States Supreme Court. I have read a number of his opinions since he was elevated to the Fifth Circuit: they are totally indistinguished and, most charitably, they reflect only a limited capacity to comprehend the significance of the issues before the Court. Judge Carswell, in my view, is the weakest nominee for the Supreme Court during this century.

I also have grave doubts as to the sincerity of Judge Carswell's recent statements on racial issues in view of the disclosures about his prior views and acts. My primary objection to the nomination, however, is Judge Carswell's fundamental lack of qualifications for the important position to which he has been nominated.

Very truly yours,

ROBERT W. HAMILTON,
Professor of Law.

PARKER C. FIELDER,
ATTORNEY AT LAW,
Austin, Tex., March 17, 1970.

HON. RALPH YARBOROUGH,
U.S. Senator from Texas,
Senate Office Building,
Washington, D.C.

DEAR RALPH: I am writing to express myself to you on the matter of the confirmation of G. Harrold Carswell only after long, deliberate and serious thought.

I have endeavored to give, and trust that I have given, due regard to the prerogatives of the President in appointments to the Supreme Court of the United States. His judgment in such a matter is entitled to the highest respect and presumption of propriety.

Nevertheless, the Senate does have a coordinate responsibility in the appointment process. While it may be that a Senator or the Senate should not refuse advice and consent lightly or for minor differences with the President, there may arise a situation in which the appointment is so ill-advised that the Senate must refuse to accept the Presidential judgment.

I am thoroughly and firmly of the opinion that the latter situation has arisen in the case of Mr. Carswell. I base my judgment entirely and with the greatest detachment I can muster upon his competence as a lawyer and a judge, measured by his professional and judicial record and by his testimony before the Senate Judiciary Committee.

It is my considered opinion that Mr. Carswell is not a fit person to sit upon the Supreme Court and that the President has erred in nominating him.

I therefore strongly urge you to vote to deny the confirmation of Mr. Carswell.

With continuing respect and warm regards, I am,

Sincerely yours,

PARKER C. FIELDER.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 3, 1970.

HON. RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: The undersigned are members of the faculty of the University of Texas Law School, Austin.

Recent disclosures about the capacities and attitude of Judge G. Harrold Carswell have persuaded us that he should not be confirmed as a Justice of the United States Supreme Court. We therefore urge the Senate to reject this nomination.

The Supreme Court plays a uniquely powerful role in our nation. Whether a justice is a "strict constructionist" or an "activist," the issues coming before the Court require great strength of mind and sensitivity to injustice. Every nomination for the Court thus carries a heavy burden in this regard.

Measured by these standards, the nomination of Judge Carswell is clearly deficient. In the past he has demonstrated attitudes hostile to our black citizens. Admittedly, these occurred many years ago, but when such evidence appears in the record, there is an obligation to show that the attitude then reflected no longer exists. Justice Hugo Black had indeed been a member of the KKK some years before his nomination, but he had sufficiently demonstrated the insignificance of this by his conduct both before and after. Judge Carswell has not only made no such demonstration of a changed attitude, but the emerging evidence indicates that at least remnants of this attitude still linger.

Finally, as careful students of his judicial performance like Professor William Van Alstyne (who, incidentally, supported Judge Haynsworth's nomination) and Dean Louis Pollak of Yale, have concluded, the intellectual quality of Judge Carswell's opinions is far from distinguished.

This is not to deny the appropriateness of a justice from the South, but in these difficult days, strength of intellect and sensitivity to minority aspirations are indispensable for any appointment to one of the most

powerful and demanding offices our society possesses. Measured by either of these standards, Judge Carswell fails.

Very truly yours,

Lino A. Graglia, Robert W. Hamilton, Roy M. Mersky, David W. Robertson, Michael P. Rosenthal, George Schatzki, James M. Treece, O. James Werner, Joseph P. Witherspoon.

THE UNIVERSITY OF TEXAS AT AUSTIN SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

Senator RALPH W. YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am taking this opportunity to urge you to vote *against* the confirmation of Judge G. Harrold Carswell when it comes before the full Senate. In my opinion Judge Carswell's qualifications for the Supreme Court are, viewed in the most charitable light, mediocre. Leaving aside questions of personal philosophy, the unique place the Supreme Court holds in our Government calls for men of especially outstanding ability and outstanding promise. Judge Carswell does not measure up in either of these respects.

Respectfully yours,

MICHAEL P. ROSENTHAL,
Professor of Law.

(Organizational affiliation for identification only.)

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 19, 1970.

Hon. RALPH YARBOROUGH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am writing to encourage you to vote against the nomination of Judge G. Harrold Carswell as Justice of the United States Supreme Court. I have read many of Judge Carswell's opinions, and I regard Judge Carswell's work as totally undistinguished. His opinions lack the insight, thoughtfulness, style, and, most important, the concern for fairness that mark the work of a fine judge.

I firmly believe that the President of the United States should be able to select Supreme Court Justices who adhere generally to his own political philosophy. For that reason, I favored the confirmation of Chief Judge Haynsworth, although Judge Haynsworth's outlook on many problems was not at all in accord with my own. Judge Haynsworth was, I am convinced, a concerned and capable jurist. Judge Carswell, I am convinced, is not.

The Senate always has the right and the duty to insist that Supreme Court nominees be truly capable men, and I believe that it has a special right and a special duty to review the decisions of a President whose platform was based, in part, on the need to appoint better judges to the Supreme Court.

The Senate and the nation, in my view, are entitled to something better than the President has offered in this instance.

Sincerely yours,

ALBERT W. ALSCHULER.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

Re nomination of Judge Carswell.
Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: From what I have been able to learn from the newspapers, Judge Carswell is a man of only average intellectual ability, without personal distinction. While I don't think that either the court or the country will fall apart if his nomination is confirmed, I should think we could do better on our highest court.

Why don't you vote against him and give the president a chance to appoint a nominee of stature?

Yours very truly,

ALLEN E. SMITH.

AUSTIN, TEX.,
March 18, 1970.

Re nomination of Judge Carswell.
Senator RALPH YARBOROUGH,
Senate Office Building,
Washington, D.C.

DEAR SENATOR YARBOROUGH: I am writing to urge you to vote against the confirmation of Judge Carswell's nomination to the Supreme Court.

I have read several of the judge's opinions, including all of the opinions in the labor relations field—the field of my specialty—and it is my judgement that Judge Carswell is, at best, a lawyer and judge of weak mediocrity. At worst, he is a man of little or no depth, of no vision, of no creativity, and with little grasp of the nature of the judicial process.

In these times when the Supreme Court has become one of the most important institutions dealing with difficult and sensitive issues, it would be—in my judgment—a great disservice to the country for Judge Carswell to be elevated to the Supreme Court.

In light of the many eminent and qualified jurists, attorneys, and scholars who could be selected for this important post (I should add that many of these men reside in the South), I strongly urge you to vote against Judge Carswell's confirmation.

Sincerely yours,

GEORGE SCHATZKI,
Professor of Law,
The University of Texas.

THE UNIVERSITY OF TEXAS AT AUSTIN, SCHOOL OF LAW,
Austin, Tex., March 18, 1970.

Hon. RALPH W. YARBOROUGH,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR RALPH: From all I have read and heard about Judge Carswell, I have become convinced that he is a jurist of mediocre ability and I therefore hope that you will vote against confirmation of his appointment to the Supreme Court.

With warmest personal regards,

Sincerely yours,

WILLIAM O. HUIE.

Mr. YARBOROUGH. While many hundreds of messages from my home State, both favoring and opposing Judge Carswell are too numerous to reprint, I ask unanimous consent to print at this point in the RECORD an editorial from the San Antonio Express of today, Tuesday, April 7, 1970, titled "Nixon's Warped View of Court."

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

NIXON'S WARPED VIEW OF COURT

Once again, a political battle will decide who fills the vacant seat on the Supreme Court. And, once again, only losers will be left, no matter what the outcome.

The Senate will decide Wednesday whether G. Harrold Carswell shall have the seat. If Carswell's nomination is confirmed, he will forever have the mediocre seat on the court. If he is rejected, he will be one of the losers of a messy fight.

President Nixon, as he did for Clement Haynsworth, has put all his prestige on the line for Carswell. Petulantly, he says he has a right to have "his man" on the court. This narrow view would have the court serve as an extension of the executive arm—which it is not!

Carswell's lack of candor before the Senate Judiciary Committee was damaging. Carswell told two American Bar Association representatives that he was an incorporator of a segregated country club. The next day he swore that he had no such role. Confronted by documents, he changed his testimony and blamed a hazy memory.

After the Haynsworth debacle, all assumed that the next Nixon nominee would be throughly checked. Not so. Atty. Gen. Mitchell made the recommendation, but his screening again was faulty.

Somewhere there must be a jurist who is Republican, conservative, "constructionist," financially clean, judicially competent and available. Should the Carswell nomination fail, the President should search this man out.

Judge Carswell may be confirmed by a few votes. But he will be a loser if almost half the Senate opposes him. The President will have spent more of his prestige. The nation's confidence in the Supreme Court will have been sapped further. These frequent, debilitating squabbles should be avoided.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

THE CARSWELL NOMINATION

Mr. HART. Mr. President, tomorrow we shall vote on the nomination to the Supreme Court of Judge Carswell. It has been said that everything has been said that could be said, that all the issues have been discussed and rediscussed.

I rise, not to introduce a new element, but to bring to the attention of my colleagues very recent expressions from two sources on one of the elements that I think is of critical importance to our decision on the nomination. These are observations from sources outside the Senate, and of very recent date. Both of them bear, Mr. President, on the question of the credentials of the nominee.

I know of no Senator who is happy to stand up and suggest that a fellow lawyer lacks credentials. It is particularly uncomfortable for one such as I, who never served as a Federal district judge, never sat on a circuit court of appeals, and served only briefly as a U.S. attorney, inasmuch as I put in the RECORD two comments which are critical of Judge Carswell's capacity, and thus, in effect, rise to question his credentials.

But we are talking about the credentials that ought to be required of a person who is to sit on the Highest Court of this land. And uncomfortable though it may be, even his best friends have found it somewhat straining to wax eloquent on the extraordinary distinctions and gifts that are reflected in the record of public service of the nominee.

We are told, and I think in a measure it is correct, that this is a subjective judgment, although the figures on reversal and the balancing of opinions of distinguished law professors, law school deans, and gifted figures at the American bar have a measure of objectivity to them.

If any of my colleagues wonders whether the question of credentials is important, or whether mediocrity is a factor, let me read from a book just published by James V. Bennett, the longtime Director of the Federal Bureau of Prisons, whose service under four or five Presidents marked him as a nonpolitical figure. In fact, his experience would

suggest that he is extraordinarily qualified to express this opinion, which is found in a book which has just come on the market, entitled "I Chose Prison." It is a Knopf publication.

One of the problems familiar to Jim Bennett in his experience with criminal jurisprudence was the role that judges play. On page 192, after a quotation from former Attorney General Herbert Brownell—and let me read first the statement of Mr. Brownell—

All too often, a judge gets his job as a reward for political loyalty, and looks on the courthouse as a cozy rest home.

Jim Bennett tells us this:

It is perhaps no exaggeration to say that, over the long haul, mediocrity in our courts is more corrosive than corruption.

That is the opinion of a man who fought crime for a long time in this country, and with great distinction. I bring it to the record tonight on the eve of this vote, not really with the thought to make life miserable for the nominee, but perhaps to be helpful if there is a colleague or two still wondering to what extent the lack of credentials should influence his vote tomorrow. Jim Bennett suggests the answer.

Mr. President, the second outside source which I should like to make available to my colleagues as we approach this vote is an editorial of Friday, February 3, 1970, from the Flint, Mich., Journal. It is captioned, appropriately, "Carswell Credentials Are Just Too Meager." It is a thoughtful analysis of the several elements that are central to the decision that confronts us tomorrow, but I think its caption suggests that it, too, shares the belief of Jim Bennett that the question of credentials overrides them all.

This, in conclusion, is not the point which on the several occasions I have risen to speak has been the central issue in my mind. I have suggested that to appoint one to the Supreme Court, in the year 1970, about whom fair question can be raised as to his devotion to the principles of civil rights, is wrong.

Senators will recall that I cited President Nixon's Miami acceptance speech, in which he would seem to agree. There he said that those who have the responsibility for enforcing our laws, and our judges, who have the responsibility to interpret them, should be dedicated to the great principles of civil rights.

Only a very thin brew has been produced here by those who support this nomination to explain how this nominee fits President Nixon's description. The dilemma which confronts this country, as we seek to make one people, not a Nation divided black from white, suggests, I believe, that this is the central weakness in the nomination.

To name, at this time, to any high level Federal post a man whose views on racial equality are open to question would be a grave error. To make such an appointment to the Nation's highest tribunal, the very institution in which most black Americans have plausibly deposited maximum confidence, could bring about incalculably tragic consequences. I think, in the personal sense, it creates an apparent conflict of interest much more damaging than anything that Judge Haynsworth and his portfolio might have put on that Bench.

As I say, to me, this is the overriding reason which should persuade us not to consent by our vote tomorrow. But the Flint Journal and James V. Bennett, I think, would suggest that the question of the lack of credentials should be regarded as overriding.

To those who still think about the importance of the absence of credentials, I refer them again both to the editorial and to Mr. Bennett's conclusion that over the long haul it is no exaggeration to say that mediocrity in our courts is more corrosive than corruption. Anyone who has forgotten the rules of evidence should be reminded that evidence produced before the controversy has a very high degree of credibility. Mr. Bennett wrote this before the controversy over Judge Carswell developed.

Mr. President, I ask unanimous consent to have the editorial from the Flint Journal printed at this point in the RECORD.

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

[From the Flint Journal, Apr. 3, 1970]

CARSWELL CREDENTIALS ARE JUST TOO MEAGER

When the Senate votes on Judge G. Harrold Carswell's appointment to the U.S. Supreme Court, the issue will be more than just the filling of one seat on the bench, as important as that step may be.

The decision of the Senate will set a strong precedent for future Senates when members consider the qualifications which they will investigate in exercising their power of advice and consent in judicial appointments.

If that had not been clear before, the message of President Nixon made it so when he wrote:

"What is centrally at issue in this nomination is the constitutional responsibility of the president to appoint members to the court and whether this responsibility can be frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of one person entrusted by the Constitution with the power of appointment."

(The President weakened his case by going on to claim the right "freely accorded to my predecessors," since the Senate has on several occasions rejected presidential nominees).

AN OLD ISSUE

The issue is an old one in our government as the legislative, judicial and administrative branches have battled to establish their position and authority in various fields.

The appointive power of the president has been in issue on a number of occasions, but seldom as much as in recent years. Refusal to confirm Justice Abe Fortas as chief justice and the rejection of Judge Clement Haynsworth for the post to which Carswell has been named are recent instances.

Originally challenged on far less substantial grounds, the rejection of Fortas finally rested on the nominee's lack of ethics. This point was enlarged and reinforced when Haynsworth, too, was defeated primarily on the grounds he was insensitive to the standards of conflict of interest and, again, lacking in judgment in matters of ethical conduct.

With the nomination by Nixon of Carswell, it was apparent that Atty. Gen. John Mitchell had taken these cases into consideration in his recommendation and avoided a further challenge in this area.

What then has the opposition against Carswell been based upon and why was this nomination, originally considered a shoo-in, gone down to the wire and demanded every ounce of political persuasion by Nixon and the Republican leaders?

There are two principal charges against Carswell.

First is that, while not a blatant racist, he is, at the least, insensitive to the problems of racial prejudice and, at the worst, incapable of grasping the political and social philosophy that considers racial prejudice a threat to the democratic process.

The second is that he is not of sufficient stature and does not have an impressive enough record to warrant raising him to the highest court in the land.

RECORD OF REVERSALS

The racial bias question first centered on a quotation of a very racist nature made many years ago by Carswell as a candidate for political office in Florida. The Flint Journal suggested that this was not sufficient reason to reject his nomination, since Carswell unequivocally repudiated that statement and apologized for having made it. (Negro columnist Carl Rowan takes this same position).

More serious, however, have been Carswell's activities in connection with a move to turn a public golf course into a private one to preserve its segregationist policy and his repeated reversal by higher courts on rulings he made in cases dealing with segregation, most of which were clearly in support of the Southern doctrine of segregation.

Sen. Robert P. Griffin of Michigan—who is in the center of the fight for the nomination—has taken a position that makes clear the dilemma of Carswell supporters. In defense of Carswell he has stated:

"Although I would have preferred a nominee with a more distinguished civil rights record, I do not believe Judge Carswell can fairly be considered an extremist or racist."

It is that same negative posture forced on supporters which has plagued the entire Nixon campaign for Carswell and has led to such damaging statements as Sen. Roman L. Hruska, R-Neb., implying that mediocrity deserves its place on the Supreme Court.

LACKLUSTER CAREER

More to the point, we believe, is whether or not the times and the needs of the nation did not demand from Nixon an appointment in which the racial question could not be raised legitimately.

With the question of Carswell's racial bias, at the very best a moot point, there remains the matter of the candidate's qualifications. Here, again, is that strange resort to negativism by his supporters.

Griffin justifies his position by saying it is not proven that Carswell will not be a great justice. In saying that, he cites opposition voiced against such previous appointees to the Supreme Court as Louis D. Brandeis, Chief Justice Charles Evans Hughes, Tom C. Clark, Hugo L. Black and Felix Frankfurter, all of whom served with distinction.

The point Griffin fails to raise is that those men had distinguished careers in government, on the bench or before the bar, in the academic world or in the Senate and were known widely as men of distinction, whether or not those opposing them agreed with their philosophies.

Carswell, a politically appointed minor judge, was unknown outside his particular circle, undistinguished in the judiciary, with a lackluster career and a very dismal record of having been reversed repeatedly by higher courts, not necessarily a touchstone of excellence but certainly one of the primary yardsticks in considering the qualifications of a member of the judiciary.

Nixon has put his party on the spot by his insistence upon the right to name any person he considers qualified to the court and not be questioned on the nominee's principles and philosophies.

If this were an appointment to an executive position he would have a far stronger argument. The right of the boss to pick his own lieutenants is well established.

NOT JUSTIFIED

Appointments to the Supreme Court must be viewed differently. In the words of Chief Justice Roger B. Taney, who served from 1836 to 1864, the court is "equal in origin and equal in title to the legislative and executive branches of the government," certainly putting an added burden on the President to choose wisely and an even greater demand upon the Senate to see that he does so.

It is our hope that a majority of the Senate will reject a man of whom Dean William Allen of the University of Michigan Law School has said there is "No reason whatever . . . to accept . . . such meager credentials."

Mr. GRAVEL. Mr. President, I should like to associate myself with the remarks of the distinguished Senator from Michigan (Mr. HART) and with the remarks of the distinguished Senator from Texas (Mr. YARBOROUGH), who preceded us both this afternoon.

I should like to address myself in one small measure to a statement made yesterday afternoon by the distinguished Senator from Virginia (Mr. SPONG) while I occupied the Presiding Officer's chair.

We are essentially in the same situation, having voted for the President's nominee Judge Haynsworth and now having announced our positions to vote against the President's present nominee, Judge Carswell. It is interesting that two individuals, one from so far North and one from a community which is very much a part of Southern history, should follow a similar voting pattern.

I can attest to the problem that comes of geographic constraint, because I can frankly say that when I voted for Judge Haynsworth, after a great deal of introspection on my part, I received a great deal of criticism in my own State. I received a great deal of pressure before the final vote was cast.

So I know firsthand the emotions that race through my colleague's mind, and I know firsthand what he will be subjected to in the ensuing months in the geographic context of his own constituency with regard to this issue. I compliment him on his courage.

I would hope the record is made clear—and I am glad that the Senator from Texas made the statement—that if Judge Carswell's nomination is rejected, I hope the President will go to the South and select another jurist, but a man of some caliber, who will grace the Bench with honor and distinction. I do not feel that it is worthy of this body to reject or approve anybody based upon geographic considerations.

I would just like to give my own wrap-up of why I feel Judge Carswell's nomination should not be confirmed tomorrow, and add one slight item which gives me some distress.

There are three basic points why I hope tomorrow the Senate will reject Judge Carswell's confirmation, and one is based upon race matters. I think he should be forgiven the statements made some 20-odd years ago, but I think he has not made sufficient record, through act or deed, to give any indication—not even the slightest indication—that he has had a change of heart, a change of philosophy, or a change of viewpoint. In fact, in reading the record I feel that what actually has happened in this person is a greater sophistication, wherein the views are put forth in a more palatable fashion in somewhat polite society. Still, this sophistication does not disguise what I feel is a view and a philosophy that should not be allowed on the High Court—a racially based philosophy.

The second point at issue, of course, is the ethical question. I do not measure the ethics only in financial terms of personal reward. I think it is a point of ethics if a person who has power abuses power. I think that here, again, looking at the record of Judge Carswell and his conduct, the way he has handled people in his court, we have strong indication and adequate proof that he has usurped power in a fashion that, in my mind, reflects very poor judicial ethics.

The third question—one that has been adequately treated by my colleague most recently—is the issue of judicial stature. I cannot think of a better quotation that could be made than the fact that mediocrity can be a corrosive factor or instrument on anything that takes place—least of all do we want it in one of the most important instruments of our Government.

But the point that distresses me most is the point that has occurred since the Easter recess. When I declared myself prior to the Easter recess, it was based upon information that had been uncovered since the name was handed down to the Senate. I think information was brought forward of which the President had no knowledge. With the uncovering of this information, the President had a very simple choice and that was not to do anything; and if the Members of this body chose, they could return that nomination to committee for further investigation.

The President, after the Easter recess, chose an alternative position that was very simply to use the full force of his office to effect the confirmation of Judge Carswell's nomination. I think this will inure to the President's detriment. Certainly he has his choices, but the record was made and was revealed, and the choice was made by Judge Carswell and the administration to not have him come back to the Judiciary Committee for further investigation, for further statements. This was not the case with Judge Haynsworth; because, as he was under attack, he did come forward and give additional testimony.

I can liken this to a practice which is fairly familiar in judicial circles and which may speak a world of information when it is invoked. I think that Judge Carswell in this case, when confronted with accusations, has in a sense taken the fifth amendment. I think that a person wishing to hold that high office, in the interest of creating a sense of authority, creating a sense of sensitivity, creating a sense of responsiveness, should have come forward and treated these allegations and should not have retired in silence and relied upon the administration to push through the confirmation.

I hope that tomorrow the Senate will not confirm Judge Carswell's nomination, because I think it will not be in the best interests of the Court, and not in the best interests of the United States.

I yield the floor.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess, in executive session, until 10 o'clock tomorrow morning.

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

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION

Mr. BYRD of West Virginia. Mr. President, I move that the Senate go into executive session.

The motion was agreed to, and the Senate proceeded to the consideration of executive business.

Mr. BYRD of West Virginia. Mr. President, what is the pending question?

The PRESIDING OFFICER (Mr. HANSEN). The question is, will the Senate advise and consent to the nomination of Judge G. Harrold Carswell of Florida to be an Associate Justice of the Supreme Court of the United States?

Mr. BYRD of West Virginia. Mr. President, I thank the Chair.

As a reminder to Senators, there will be no morning business tomorrow until the vote on the nomination of Judge G. Harrold Carswell to be Associate Justice of the Supreme Court of the United States has been completed.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess, in executive session, until tomorrow morning at 10 o'clock.

The motion was agreed to; and (at 6 o'clock and 4 minutes p.m.) the Senate recessed, in executive session, until tomorrow, Wednesday, April 8, 1970, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 7, 1970:

DEPARTMENT OF THE INTERIOR

Fred J. Russell, of California, to be Under Secretary of the Interior.